



19 of 35 DOCUMENTS

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**RULE ADOPTIONS**

**CHILDREN AND FAMILIES  
OFFICE OF LICENSING**

45 N.J.R. 633(a)

**Adopted Amendments: N.J.A.C. 10:122-1.1, 1.2, 1.3, 2, 3, 4.1, 4.2, 4.3, 4.5 through 4.10, 5, 6.1, 6.3 through 6.6, 6.8, 7.1, 7.3, 7.4, 7.5, 7.7, 7.8, 7.10, 8.7, 9.1, and 9.4**

**Manual of Requirements for Child Care Centers**

Proposed: February 21, 2012 at 44 N.J.R. 337(a).

Adopted: February 20, 2013 by Allison Blake, Ph.D., L.S.W., Commissioner, Department of Children and Families.

Filed: February 20, 2013 as R.2013 d.047, **with substantial and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 30:5B-1 through 15.

Effective: March 18, 2013.

Operative Date: September 1, 2013.

Expiration Date: August 6, 2016.

**Summary of Public Comment and Agency Response:**

The Department of Children and Families (Department) received written comments regarding this rulemaking action from persons representing licensed child care centers and child advocacy groups.

1. Advocates for Children of New Jersey (ACNJ), Cecilia Zalkind, Executive Director and Amanda Blackman, Senior Policy Analyst
2. American Heart Association (AHA), Corinne Orlando, Director of Government Relations
3. Champions, Jill Brown, Government Relations Specialist
4. Coalition of Infant/Toddler Educators (CITE), Terri Buccarelli, President
5. HOPES Community Action Partnership, Ora Welch, President/CEO

6. New Jersey Association of Child Care Resource and Referral Agencies (NJACCRRRA), Nancy Thompson, NJACCRRRA Representative

7. New Jersey Child Care Association (NJCCA), Barbara DeMarco, Vice President, Porzio Governmental Affairs, LLC

8. New Jersey Dietetic Association (NJDA), Denise Langevin, Past President and Representative to Shaping NJ

9. New Jersey Early Care and Education Alliance (NJECEA), Elmorita Thomas, Co-Chair Person

10. New Jersey WIC Advisory Council (NJ WIC), Rickie Kashdan, Chair

11. Programs For Parents, Inc., Beverly Lynn, CEO

12. Sandy Sheard, MAP to Inclusive Child Care Team

13. Statewide Parent Advocacy Network (SPAN), Diana MTK Autin, Executive Co-Director for Health and Family Support

1. COMMENT: ACNJ supports the proposed changes to the Manual of Requirements for Child Care Centers that strengthen the current regulations and help create an environment in child care centers that will help prevent childhood obesity.

RESPONSE: The Department thanks ACNJ for their comment.

2. COMMENT: NJDA applauds the Department for incorporating many of the recommendations brought forth by the Shaping NJ initiative, which is a Statewide partnership for the nutrition, physical activity, and obesity prevention of which NJDA is a partner.

RESPONSE: The Department appreciates NJDA for their comment.

3. COMMENT: NJDA supports the requirements for energetic physical activity and limitation of screen time as increased activity and decreased sedentary time is a positive step to reduce obesity.

RESPONSE: The Department thanks NJDA for their comments and agrees that these measures will help fight obesity.

4. COMMENT: NJ WIC commends the Department for its efforts to update and strengthen the existing requirements in the areas of nutrition, physical activity, television viewing limitations, and breastfeeding that are intended to address childhood obesity.

RESPONSE: The Department appreciates the comments of NJ WIC.

5. COMMENT: NJECEA requests that the Department incorporate the revised licensing requirements as entry level for the Statewide Quality Rating System.

RESPONSE: The Department has been involved with other State departments and stakeholders regarding the development of a Quality Rating Improvement System. The Quality Rating Improvement System, when implemented, will include centers being licensed under the current rules as a required step in the Quality Rating Improvement System, so it is unnecessary to repeat the licensing standards in the QRIS. That system is, however, under the purview of the Department of Education and outside the scope of this rulemaking.

6. COMMENT: NJCCA recommended changing the rule at N.J.A.C. 10:122-1.2(d)2 to require public and private schools providing child care to meet the same standards as licensed child care centers.

RESPONSE: The Department declines to make this change. The Department does not have the authority to regulate private and public schools, which fall under the purview of the Department of Education.

7. COMMENT: NJCCA expressed support for the amendment at N.J.A.C. 10:122-2.1(b), which requires the center to submit a license application form when the center relocates.

RESPONSE: The Department thanks the commenter for its support.

8. COMMENT: NJCCA recommended changing the rule at N.J.A.C. 10:122-3.1(b) to exempt corporations, limited liability corporations, governing boards, and joint owners from the requirement that the sponsor's representative shall

have a bachelor's degree. NJCCA suggests that this requirement might otherwise unfairly require a center owned by non-degree holders to transfer ownership rights to the holder of a bachelor's degree to satisfy the requirement.

RESPONSE: The Department acknowledges the commenter's concern. In lieu of the change as recommended, the Department has opted to make a change on adoption to replace the language "one of those individuals" with "an individual" in this provision, so that the sponsor representative need not be a member of the ownership group or governing board.

9. COMMENT: NJCCA expressed support for the amendment at N.J.A.C. 10:122-3.5(b), which requires the center to notify parents of the center's phone number, either in writing or by e-mail.

RESPONSE: The Department thanks the commenter for its support.

10. COMMENT: NJCCA expressed support for the amendments at N.J.A.C. 10:122-3.6(a)21 and 22, which require the center to inform parents that the center is required to provide reasonable accommodations for children and/or parents with disabilities, and that the center is required to maintain and update at least annually a list from the Consumer Product Safety Commission regarding unsafe products.

RESPONSE: The Department thanks the commenter for its support.

11. COMMENT: NJCCA expressed support for the amendment at N.J.A.C. 10:122-4.3(a), which requires the center to keep track of the location and ensure the safety of children during the utilization of off-site locations, including playgrounds and field trips.

RESPONSE: The Department thanks the commenter for its support.

12. COMMENT: NJCEA expressed concern about existing requirements at N.J.A.C. 10:122-4.3(c), regarding staff/child ratios, and 4.4(a), regarding grouping of children. The commenter recommended changing the rule to support best practices by requiring a ratio of 1:4 and group size limit of eight for infants under 18 months, and a ratio of 1:5 and group size limit of 15 for toddlers 18 months to 2 1/2 years.

RESPONSE: The existing rule already requires a 1:4 ratio for infants (N.J.A.C. 10:122-4.3(c)), and the specified group sizes in N.J.A.C. [page=634] 10:122-4.4(a)2--four infants or six toddlers to whom a primary caregiver has been assigned--are smaller than those recommended by the commenter. The Department declines at this time to change the ratio for toddlers from 1:6 (N.J.A.C. 10:122-4.3(c)) to 1:5. No rationale for the change has been offered, and the Department believes that the current ration provides adequate assurance that children will be appropriately supervised.

13. COMMENT: NJCCA recommended changing the amendment at N.J.A.C. 10:122-4.5(e)4, which requires the group teacher to work at the center for at least 75 percent of the center's daily operating hours, or at least six hours a day, whichever is less. The commenter expressed the view that the rule imposes an unnecessary expense for no reason on centers that operate both full- and half-day programs, or only half-day programs. The commenter asked the Department to change the amendment to take into account varying hours of operation, such as full-day, partial-day, and half-day programs.

RESPONSE: The Department acknowledges the commenter's concern, and believes the existing proposed change addresses the concern. The Department, therefore, declines to make further changes. The amendment as stated allows for varying hours of operation. If a center only operates for a half day or partial day on a given day, the group teacher would only need to be at the center for 75 percent of the operating hours on that day.

14. COMMENT: NJCCA expressed support for the amendments at N.J.A.C. 10:122-4.5(e)7iii, which require the record of the consulting head teacher's visit to include the time of each visit and the observation of the program at the center.

RESPONSE: The Department thanks the commenter for its support.

15. COMMENT: NJCCA recommended changing the amendments at N.J.A.C. 10:122-4.6(b), which deleted the provision that directors hired before March 21, 2005 had to complete specified staff development by March 21, 2008. The commenter recommended that all directors be required to complete either the Director's Academy approved by Professional Impact New Jersey, or the National Administrator Credential offered by the National Child Care Association.

RESPONSE: The Department declines to make this change. The amendments were designed to delete obsolete provisions, since the March 21, 2008 date for compliance has passed. All directors are now required to complete either the

New Jersey Administrators' Credential approved by Professional Impact New Jersey (which has replaced the Director's Academy), the National Administrator Credential offered by the National Child Care Association, or at least 45 clock hours of staff development in specified areas.

16. COMMENT: CITE and NJCEA expressed support for the amendments at N.J.A.C. 10:122-4.6(c) and 4.7(d), which add the New Jersey Infant/Toddler Credential to the staff qualifications and staff development options.

RESPONSE: The Department thanks the commenters for their support.

17. COMMENT: NJCCA expressed support for the amendments at N.J.A.C. 10:122-4.7(a), which require newly hired staff to complete orientation prior to working without direct supervision by an approved staff person, increase the number of required staff development hours from eight to 10, and require each staff member to complete at least two hours of staff development each year in each of the three specified areas.

RESPONSE: The Department thanks the commenter for its support.

18. COMMENT: ACNJ, NJACCRA, Programs for Parents, and SPAN recommended changing the amendments at N.J.A.C. 10:122-4.7(d)1 and 2 to reflect the fact that Professional Impact New Jersey approves but does not itself offer staff development.

RESPONSE: The Department agrees and has changed the rule on adoption accordingly. In addition, a technical change has been made to the table at N.J.A.C. 10:122-4.6(c)3ii(F) to reflect that the required training is "administered through" Professional Impact New Jersey.

19. COMMENT: NJCCA recommended changing the amendments at N.J.A.C. 10:122-4.7(e), which require directors to complete staff development in understanding licensing regulations as provided by the Office of Licensing within 90 days of hire. The commenter inquired about provisions for extenuating circumstances such as disability, pregnancy, or vacation, and asked whether the Office of Licensing will provide the staff development sessions more than once in a 90-day period.

RESPONSE: The Department declines to make this change. When the director is absent from the center for six or more weeks, the center is required at N.J.A.C. 10:122-4.5(d) to assign another staff member to serve as director. In that case, the rule in question would apply to the staff member serving as director. The Office of Licensing makes every effort to provide the staff development sessions in Understanding Licensing Regulations as frequently as possible. In the unlikely event that the Office of Licensing should be unable to provide such a session for longer than 90 days, compliance with this rule would not be expected during that time period.

20. COMMENT: NJCCA recommended changing the amendments at N.J.A.C. 10:122-5.1(a)1, which delete the I-2 group and require the I-4 group for centers serving one or more children below 2 1/2 years of age. The commenter expressed concern about the economic impact of the amendments on smaller centers.

RESPONSE: The Department declines to make this change. The group classifications in the New Jersey Uniform Construction Code have been changed and are outside the purview of the Department.

21. COMMENT: NJCCA expressed support for the amendments at N.J.A.C. 10:122-5.2(a)8, which address the use of pesticides. However, the commenter expressed concern about the amendment at N.J.A.C. 10:122-5.2(a)8i, which prohibits pesticides from being applied in or around a center during normal operating hours. The commenter stated that certain municipalities do not allow landscapers to work on weekends or during early morning or late evening hours.

RESPONSE: The Department thanks the NJCCA for its support and acknowledges the concern. Though the Department is unpersuaded that pesticides can be safely applied while children are being cared for at a center, it acknowledges that the provision as proposed may have limited a center's ability to suspend operations and apply pesticides during what would have otherwise been "normal business hours." To accommodate this situation, the word "normal" has been stricken in the adopted rule. The commenter has not identified, and the Department is not aware of, any rule or ordinance in any municipality which so narrowly restricts the time for the application of pesticides.

22. COMMENT: Champions recommended changing the amendment at N.J.A.C. 10:122-5.2(a)12, which requires the center to install window guards or an alternative method to ensure that children cannot fall out of windows. The commenter stated that centers renting space in school buildings are not permitted to install window guards or some alternative methods, and that the center is already required to submit the school's Certificate of Occupancy as evidence of approval by the local construction official.

RESPONSE: The Department declines to change the rule. The rule permits centers to utilize window guards or "provide an alternative method to ensure that children cannot fall out of windows." The Department anticipates that the flexibility inherent in this provision is more than adequate to permit all licensed centers, including those leasing space in public schools, to devise some method to prevent children from falling from windows.

23. COMMENT: NJCCA recommended changing the amendments at N.J.A.C. 10:122-5.2(a)13, which require window blind cords and other cord/rope items that present risk of harm to be inaccessible to children. The commenter suggested requiring such cords to be secured.

RESPONSE: The Department acknowledges the commenter's concern but declines to change the rule. Securing cords is one method of making those inaccessible to children, but it is not the only acceptable method.

24. COMMENT: NJCCA recommended changing the amendment at N.J.A.C. 10:122-5.2(a)14, which requires the center to install barriers on balconies, rooftops, verandas, and other areas that subject children to an open drop or atrium. The commenter recommended that the rule comply with the standards of the Building Officials and Code Administrators International, Inc.

RESPONSE: The Department declines to make this change. Because the building code rules applicable to different centers will vary depending on the date of construction, it is absolutely essential that a single minimum standard be established in the child care rules. Deferring to building codes would require that inspectors familiarize themselves with [page=635] all of the variables in a voluminous body of complicated and otherwise unrelated rules, and undermine their ability to ensure a minimal safety standard in all centers. This rule has applied to many centers as far back as 1989.

25. COMMENT: NJCCA recommended changing the amendment at N.J.A.C. 10:122-5.2(a)18, which prohibits microwave ovens, toaster ovens, and other portable devices used to heat or prepare food from being used when children are in the area. The commenter asked the Department to specify that the rule applies to children within three feet of the device.

RESPONSE: The Department declines to make this change. Because the layout of food preparation areas varies greatly from one center to another, it would not be practical to specify the precise distance from such devices necessary to ensure children's safety.

26. COMMENT: NJCCA recommended changing the amendment at N.J.A.C. 10:122-5.2(d)3, which prohibits the use of electric space heaters at the center. The commenter asked that the Department allow such heaters to be used in administrative office areas where children are not permitted.

RESPONSE: The Department declines to make this change. In addition to the danger of direct contact by children, electric space heaters pose a danger of fire if left unattended or in contact with flammable substances, even in areas where children are not present.

27. COMMENT: NJCCA expressed support for the amendments at N.J.A.C. 10:122-5.2(i) regarding environmental testing, but expressed concern about the amendments at N.J.A.C. 10:122-5.2(i)3iii and iv, which require an Indoor Environmental Health Assessment (IEHA) in accordance with the rules of the Department of Health (DOH). The commenter stated that DOH has increased the fee for the IEHA by \$ 1,500, and that the fee is not reimbursable through the Hazardous Waste Discharge Act. The commenter requested that the fee be eliminated, reduced, or reimbursed.

RESPONSE: The Department acknowledges the concern but declines to change the rule. The fees and reimbursements for the IEHA are not within the purview of the Department.

28. COMMENT: NJCCA expressed concern about the amendment at N.J.A.C. 10:122-5.2(o)1, which requires at least two staff members trained in first aid and cardiopulmonary resuscitation (CPR) to be in the center at all times when children are present. The commenter asked the Department to allow one staff member with such training in centers serving 30 or fewer children. The commenter stated that compliance with the rule would pose a hardship for smaller centers.

RESPONSE: The Department acknowledges the concern but declines to change the rule. The need to ensure children's safety outweighs the cost of staff training. Training in first aid and CPR is widely available at modest cost through hospitals and other community organizations. Two trained staff are necessary because more than one child may require first aid or CPR at one time.

29. COMMENT: NJCCA expressed concern about the amendments at N.J.A.C. 10:122-5.3(a)7 regarding outdoor space. The commenter objected to the deletion of N.J.A.C. 10:122-5.3(a)7iv, which allowed indoor space in lieu of outdoor space under certain conditions. The commenter asked the Department to change the rule to allow new centers in urban areas to use indoor space instead of outdoor space, so as not to prevent the growth of child care in the private sector.

RESPONSE: The Department thanks the commenter and agrees that some flexibility may be necessary to ensure the continued growth of child care in congested urban areas. On adoption, the Department has retained the existing waiver authority in N.J.A.C. 10:122-5.3(a)7 that had been proposed for deletion, but limited its application to situations in which the outdoor play space requirement cannot be met in areas with a compelling need for additional child care. The Department has also modified the required alternative indoor play space requirement to ensure consistency with the increased space requirements found in recodified N.J.A.C. 10:122-5.3(a), which require 350 square feet plus 35 square feet for every child in excess of 10 using the space at one time. Recognizing the increased difficulty inherent in measuring fluctuating usage of indoor play space, the Department has opted to fix presumed usage at 25 percent of a center's licensed capacity and include that presumption in the formula used to determine the size of the necessary space.

30. COMMENT: The Department received several comments on the amendments at N.J.A.C. 10:122-6.1(b)6 and 7, which specify requirements for energetic physical activity, and limit the use of television, computers, and other inactivity.

NJDA and NJWIC AC expressed support for the amendments. NJCCA expressed concern about the amendment at N.J.A.C. 10:122-6.1(b)6i, which requires at least 30 total minutes of energetic physical activity daily for children receiving child care for less than four hours. The commenter recommended that the Department change the rule to follow the guidelines of the National Association for Sport and Physical Education (NASPE).

CITE recommended that the Department consult the joint position statement issued earlier this year by the National Association for the Education of Young Children (NAEYC) and the Fred Rogers Center for Early Learning and Children's Media at Saint Vincent College.

ACNJ, CITE, NJACCRA, NJCEA, Programs for Parents, and SPAN recommended changing the rule as follows:

- At N.J.A.C. 10:122-6.1(b)6iii, delete the exception from physical activity for a child who needs to complete a seated activity and prohibit children from being seated (rather than the term "inactive") for more than 30 minutes.

- At N.J.A.C. 10:122-6.1(b)7i, prohibit (rather than the term "limit") the use of television, computers, and other video equipment for children under two years of age.

- N.J.A.C. 10:122-6.1(b)7ii, limit television viewing to 60 minutes per week and 30 minutes at a time for children over age two and in care more than four hours per day. For children over age two in care four hours or less per day, limit television viewing to 30 minutes per week.

- Add a rule limiting computer use to 15-minute increments per child, except for school-age children completing schoolwork, homework, or supervised enrichment activities.

- Add a rule prohibiting active play and outdoor play from being withheld as punishment.

- Add a rule requiring at least one staff member to be engaged with children during physical activity.

- Add a rule that children with special needs shall be provided with opportunities for appropriate active play that consider their health and safety while other children are physically active.

- Add a rule requiring that children shall play outdoors daily for at least 30 minutes when weather and environmental conditions do not pose a significant health or safety risk.

RESPONSE: The Department thanks NJDA and NJWIC AC for their support. The Department declines to change the rule to comport with NASPE standards, the NAEYC/Fred Rogers Center position statement, or the other recommendations noted above. The new requirements achieve a balance that the use television, computers, and other video equipment and other types of activities at centers be limited to educational and instructional use, be age and developmentally appropriate, and cannot be used as a substitute for planned activities or passive viewing. In addition, centers will be required to maintain written plans for the use of such equipment and the length of time for such use. The Department notes that withholding active play time as a means of discipline is prohibited at N.J.A.C. 10:122-6.8(c) as adopted. The Department notes that reasonable accommodations for children with disabilities are required at N.J.A.C. 10:122-3.6(a)21 and 22 as adopted. Reasonable accommodations may include appropriate active play for children with special needs.

Centers are already required to provide daily outdoor activities, weather permitting, for early childhood programs and school age child care programs are required to plan and implement programs that include recreational opportunities including a mixture of indoor/outdoor and large muscle activities. The Department declines at this time to require that a specified portion of the newly required 60 minutes of energetic physical indoor/outdoor activity daily for full time programs and 30 minutes for children receiving care for less than 4 hours daily must be spent outside.

31. COMMENT: CITE expressed concern about the existing rule at N.J.A.C. 10:122-6.1(f)2iv, which requires staff to carry non-ambulatory infants around the center periodically. The commenter recommended changing the rule to specify the amount of time to carry infants, such as 10 minutes every two to three hours. The commenter expressed the view that the rule would allow staff to carry infants less than daily.

RESPONSE: The Department acknowledges the concern and declines to change the rule. In addition to the existing requirement, staff are also required to provide a range of activities as specified at N.J.A.C. 10:122-6.1(f)2. If a center were found to carry infants less than daily, the [page=636] Department would consider the center to be out of compliance with this rule.

32. COMMENT: The Department received several comments on the amendments at N.J.A.C. 10:122-6.3(a) regarding nutrition. NJDA, NJCEA, and NJ WIC expressed support for the amendments. NJCCA recommended that the Department allow reasonable accommodations for parents based on their requests to permit food that does not comply with nutrition requirements. HOPES CAP expressed concern about the amendments at N.J.A.C. 10:122-6.3(a)12ii, which requires food left uneaten in a dish to be discarded, and (a)12iv, which requires unused portions of food to be refrigerated, returned to the parent, or discarded. The commenter expressed the view that these rules conflict with each other. HOPES CAP also expressed concern about the amendment at N.J.A.C. 10:122-6.3(a)12ii, which prohibits sharing of food among children using the same dish or spoon. The commenter requested clarification of how the rule applies to centers that serve food family style.

NJDA, ACNJ, NJACCRA, Programs for Parents, and SPAN recommended changing the rule as follows:

-- At N.J.A.C. 10:122-6.3(a)8, require drinking water to be made available for children to serve themselves throughout the day.

-- Add a rule limiting full-strength fruit juice to six ounces per daily serving.

NJDA recommended changing the rule as follows:

-- At N.J.A.C. 10:122-6.3(a)11vii, clarify the requirement that centers provide a "high portion of whole grains" by more specifically requiring that the center to provide at least half of the grains as whole grains.

-- At N.J.A.C. 10:122-6.3(a)11viii, clarify the requirement to "limit foods that are high in solid fat, added sugar, trans fats, and sodium" by specifying that centers must prepare food without added sugar, salt, or fat; to avoid fried foods; to ensure that all foods and ingredients have less than 0.5 grams of trans fat; to avoid concentrated sweets; to limit salty foods; to require 100 percent juice; to prohibit juice for children less than one year of age; and to limit daily juice to four to six ounces for children one to six years old, and eight to 12 ounces for children seven to 12 years old.

-- At N.J.A.C. 10:122-6.3(a)11vi, clarify areas where the rule is inconsistent with the Child and Adult Care Food Program standards.

RESPONSE: The Department thanks the commenters for their support, and acknowledges the commenters' concerns but declines to change the rule. The existing rule at N.J.A.C. 10:122-6.3(a)9 already allows for special diets due to parental request. The requirement to discard uneaten food in a dish does not conflict with the requirement to refrigerate unused food, because uneaten food refers to food in an individual child's dish, while unused food refers to food that has not yet been served to a child. The prohibition against sharing food does not conflict with serving family style, because sharing refers to children eating from the same individual dish or spoon, not to food on the serving plate. The requirements do not prohibit food that is provided by the parents.

The Department also declines to follow NJDA's recommendation to clarify the meaning of its requirements to "provide a high portion of whole grains" and "limit foods that are high in solid fat, added sugar, trans fats, and sodium" by prescribing more precise requirements. The Department believes these requirements are clear as stated, and that more prescriptive language would unnecessarily undermine the reasonable flexibility providers are afforded to comply with those requirements.

The Department, finally, declines NJDA's recommendation to specify all points of potential incongruity between this rule and the incorporated Child and Adult Care Food Program standards. There are no direct conflicts between the standards and this rule, and the standards are incorporated as a supplement to the rule, not as an alternative to it.

33. COMMENT: NJDA and NJWIC expressed support for the amendments at N.J.A.C. 10:122-6.3(b) regarding breastfeeding. NJCCA expressed concern about the amendments at N.J.A.C. 10:122-6.3(b)3, which require the feeding plan for children less than 18 months of age to include breastfeeding arrangements/accommodations. The commenter stated that many centers do not have the space to have a breastfeeding room, and may have as many as four mothers wanting to breastfeed at once.

RESPONSE: The Department thanks the commenters for their support, and acknowledges the commenter's concern but declines to change the rule. The rule does not require the center to have a breastfeeding room and does not specify how many breastfeeding mothers are to be accommodated. The rule refers to individual feeding plans for each child, not to general center policy. The Department believes the rule as written allows reasonable flexibility for the center and the parents to accommodate breastfeeding mothers.

34. COMMENT: NJCCA expressed concern about the amendment at N.J.A.C. 10:122-6.4(a)1, which requires children 12 months of age and younger to be placed in a face-up sleeping position. The center requested clarification so that the center is not held liable for a child who rolls over on his or her own while napping.

RESPONSE: The Department acknowledges the concern and agrees that the rule as proposed may be read incorrectly to require centers to prevent children from rolling over on their own while napping. To prevent this confusion, the Department has added the word "initially" to the adopted rule to clarify that a center's obligation is only to place the child in a face-up position to sleep, not to maintain the sleeping position while the child naps. The center is not required to change the position of a child who rolls over after being placed in a face-up sleeping position.

35. COMMENT: NJCCA expressed concern about the amendment at N.J.A.C. 10:122-6.4(b)2iv, which prohibits stackable cribs, and requires centers currently using such cribs to discontinue their use by August 6, 2014. The commenter expressed the view that there is no good reason for the prohibition, that it will cause a substantial hardship to center owners and operators, and that Federal standards do not prohibit the use of stackable cribs.

RESPONSE: The Department declines to make this change. The Federal standards cited in the rule (the Consumer Product Safety Commission's Federal Safety Standards for Full-Size and Non-Full-Size Baby Cribs, 16 CFR 1219 and 1220) address safety features for cribs as consumer products for the general public, not the use of cribs in child care settings specifically. Valid reasons for prohibiting stackable cribs in child care settings have been found by highly reliable sources. For example, Caring for Our Children: National Health and Safety Performance Standards, Third Edition, August 2011, published by the American Academy of Pediatrics, the American Public Health Association, and the National Resource Center for Health and Safety in Child Care and Early Education, does address this issue directly. Standard 5.4.5.3 advises against the use of stackable cribs in child care settings, and advises that their use be phased out where already in use. The rationale provided for this standard includes the prevention of severe head injury, such as intracranial hemorrhage (a serious bleed inside of the skull), and the prevention of contagion.

In addition, stackable cribs limit the child's ability to stand upright in a lower level crib, causing head injury when the child attempts to stand. Stackable cribs also obstruct ready access to a child in an emergency for evacuating the building or administering emergency medical care, and hinder the ability of staff members to observe and interact with the child. Stackable cribs pose a danger of collapse if a heavy object or a child over 30 pounds is in an upper level crib, causing injury to children in both upper and lower level cribs. In recognition of these concerns, 32 other states now prohibit the use of stackable cribs in a child care setting.

The Department believes that the need to protect children from injury and illness outweighs the preference of some centers to continue using stackable cribs. The Department has allowed more than a full year for compliance, to minimize the economic impact by allowing centers to phase out their use of stackable cribs.

36. COMMENT: NJCCA expressed support for the amendment at N.J.A.C. 10:122-7.1(d), which refers the center to the Department of Health website for a list of excludable communicable diseases.

RESPONSE: The Department thanks the commenter for its support.

37. COMMENT: NJCCA expressed support for the amendment at N.J.A.C. 10:122-7.3(a)2, which requires a Universal Health Record to be obtained upon admission, except for a 30-day grace period as permitted in N.J.A.C. 8:57-4.5(e)



for children coming from other states or [page=637] countries. HOPES CAP recommended that the Department change the rule to grant the same 30-day grace period to homeless children.

RESPONSE: The Department thanks the commenter for its support, and declines to change the rule. The scope of the grace period at N.J.A.C. 8:57-4.5(e) is within the purview of the Department of Health.

38. COMMENT: NJCCA expressed concern about the amendment at N.J.A.C. 10:122-7.5(b)9, which requires two staff members present at the center who are trained in health care procedures, such as the use of a blood glucose monitor, nebulizer, or epinephrine pen. The commenter objected to the requirement that staff be taught by the child's parent or another appropriately trained person. The commenter noted that the medication administration training class previously offered by Child Care Health Consultant Coordinators is no longer available, urged that the training be reinstated, and asked who would provide such training in the future. The commenter also objected to allowing parents to provide training, since their technique or instructions may be flawed.

RESPONSE: The Department acknowledges the commenter's concern but declines to change the rule. The training formerly provided by Child Care Health Consultant Coordinators is outside the purview of the Department. Allowing parents to provide training in health care procedures specific to their children is not a new rule or a substantive change, but an existing rule designed to facilitate compliance when a medication administration training class is not available. Since parents of children who need these health care procedures have already been taught to administer them to their children at home, the Department believes parents are able to teach staff to administer them properly.

39. COMMENT: MAP to Inclusive Child Care recommended that the amendment at N.J.A.C. 10:122-7.5(b)9 be broadened to specify the details of the provided training that must be maintained in center records, and to require that such training include a review of the child's Care Plan for Children with Special Needs (Department of Health form CH-15), if applicable.

RESPONSE: The Department declines to make this change. Centers are already required to use the Universal Health Record and Special Health Care Plan and maintain on file at the center, per N.J.A.C. 10:122-7.3(a)2. These documents were prepared by the Department of Health and are sufficient to record children's health care needs. The CH-15 is intended only supplement those forms.

#### **Summary of Agency-Initiated Changes:**

1. The Department has made changes upon adoption to reflect the recent change of the name of the Department of Health and Senior Services to the Department of Health at N.J.A.C. 10:122-1.2(d)5, 5.1(e) and (i)3iii and iv and 7, 5.2(j)2, 6.3(a)2ii, 7.1(d)1, 7.3(a)2 and 6, and 7.4(a)1.

2. The Department has made a technical correction at N.J.A.C. 10:122-4.6(c)1 upon adoption to refer to seven rather than six options for meeting the head teacher qualifications, because there are seven options specified in the chart of options.

3. N.J.A.C. 10:122-4.7(c) contains a technical correction made upon adoption to refer to 10 hours rather than eight hours of staff development, because 10 hours are required, due to adopted amendments at N.J.A.C. 10:122-4.7(b).

4. N.J.A.C. 10:122-5.1(a)1, 3, and 6 are changed upon adoption to refer to "groups" instead of "use groups," in order to be consistent with terminology found in the New Jersey Uniform Construction Code (see N.J.A.C. 5:23).

#### **Federal Standards Statement**

The adopted amendments do not exceed, or have any impact on, analogous Federal counterparts, since there are no existing statutes or requirements pertaining to child care centers imposed by Federal law. Therefore, a Federal standards analysis is not required.

**Full text** of the adoption follows (additions to proposal indicated in boldface with asterisks **\*thus\***; deletions from proposal indicated in brackets with asterisks \*[thus]\*):

#### **SUBCHAPTER 1. GENERAL PROVISIONS**

##### **10:122-1.1 Legal authority**

(a) (No change.)

(b) Under the laws specified in (a) above, the Department of Children and Families is authorized to:

1.-3. (No change.)

(c) Under the laws specified in (a) above, the Department of Children and Families is authorized to issue a Certificate of Life/Safety Approval to a center that:

1.-2. (No change.)

(d) Centers specified in (c)1 and 2 above are required to comply with the physical facility; life/safety; administration and control of medication; environmental sanitation; supervision, minimum staffing, and discipline requirements; and communicable disease reporting provisions of this manual of requirements. Centers with Certificates of Life/Safety Approval may secure regular licenses on a voluntary basis as long as they comply with all provisions of this manual of requirements.

(e) To be eligible for a license, a center shall demonstrate to the satisfaction of the Department of Children and Families, or the duly authorized agency, that the center complies with all applicable provisions of this manual.

(f) (No change.)

(g) Responsibility for ensuring that centers comply with the provisions of the laws cited in (a) above and with provisions of this manual is hereby delegated by the Department of Children and Families to the Office of Licensing.

(h) When a person intends to care for six or more children under 13 years of age, he or she shall apply for and secure from the Office of Licensing a license to operate a child care center. Once licensed, the center is subject to all applicable provisions of this manual, even if the number and/or ages of the children attending the center at a particular time should fall outside the definition of a center, as specified in N.J.A.C. 10:122-1.2(a).

#### 10:122-1.2 Definition of child care center

(a) "Child care center" or "center" means any home or facility, by whatever name known, which is maintained for the care, development, or supervision of six or more children under 13 years of age who attend for less than 24 hours a day.

1. For a facility that is located in a sponsor/sponsor representative's home, the Office of Licensing shall not count the children residing in the sponsor/sponsor representative's home in determining whether the facility is serving the minimum number of children that would require it to be licensed as a center.

2. (No change.)

(b)-(c) (No change.)

(d) The following programs are exempt from licensure pursuant to the laws specified in N.J.A.C. 10:122-1.1(a):

1. (No change.)

2. Programs operated by, and whose employees are paid by, a private school, which is run solely for educational purposes. Such programs shall include kindergartens, pre-kindergarten programs, or child care centers that are an integral part of a private educational institution or system providing elementary education in grades kindergarten through sixth, seventh, or eighth;

3.-4. (No change.)

5. Youth camps required to be licensed under the Youth Camp Safety Act of New Jersey, pursuant to N.J.S.A. 26:12-1 et seq. To qualify for an exemption from licensing under this provision, a program must have a valid and current license as a youth camp, issued by the New Jersey Department of Health \*[and Senior Services]\*. A youth camp sponsor who also operates a child care center shall also secure a license from the Office of Licensing for the center;

6. Regional schools operated by or under contract with the Department of Children and Families. To qualify for an exemption from licensing under this provision, a center must be operated and funded as a regional school by the Department of Children and Families, pursuant to N.J.S.A. 18A:7B-12; and

7. (No change.)

#### 10:122-1.3 Definitions of other terms

The following words and terms, when used in this manual, shall have the following meanings:

...

[page=638] "Denial of a license or a Certificate of Life/Safety Approval" means the withholding by the Office of Licensing of an initial license or Certificate of Life/Safety Approval, for which a center has applied.

"Department" means the New Jersey Department of Children and Families.

...

"Office of Licensing" or "Office" means the Office of Licensing, New Jersey Department of Children and Families.

...

"Refusal to renew a license or a Certificate of Life/Safety Approval" means the non-issuance of a license or a Certificate of Life/Safety Approval by the Office of Licensing to a center after its existing license or Certificate of Life/Safety Approval has expired.

"Regular Certificate of Life/Safety Approval" or "Regular Certificate" means a document issued by the Office of Licensing to a center that is eligible for such approval, indicating that the center is in full compliance with the provisions of this manual specified in N.J.A.C. 10:122-1.1(c).

"Regular license" means a document issued by the Office of Licensing to a center indicating that the center is in full compliance with all applicable provisions of this manual.

...

"Sponsor" means any person(s), corporation, or governing board owning or legally responsible for operating a center.

"Sponsor representative" means any person who represents or acts on behalf of a sponsor.

...

"Temporary Certificate of Life/Safety Approval" or "Temporary Certificate" means a document issued by the Office of Licensing to a center that is eligible for such approval, indicating that the center is in substantial compliance with the provisions of this manual specified in N.J.A.C. 10:122-1.1(c), provided that no serious or imminent hazard affecting the children exists in the center.

"Temporary license" means a document issued by the Office of Licensing to a center that is in substantial compliance with the applicable provisions of this manual, provided that no serious or imminent hazard affecting the children exists in the center.

## SUBCHAPTER 2. LICENSING PROCEDURES

### 10:122-2.1 Application for a license

(a) No person shall operate a center without first securing a license from the Office of Licensing. Any person who operates a center that does not have a valid license, or who uses fraud or misrepresentation in obtaining a license or who advertises or provides any service not authorized by a valid license, or who violates any other provision of the laws specified in N.J.A.C. 10:122-1.1(a), is guilty of a crime of the fourth degree, pursuant to N.J.S.A. 30:5B-13.

(b) A person applying for an initial license or renewal license to operate a center or relocation of a center shall submit a completed application to the Office of Licensing at least 45 days prior to the anticipated opening of the center or to the expiration of its existing regular license.

(c)-(d) (No change.)

(e) If the application is denied, or the center does not open, the Office of Licensing will refund the licensing fee to the applicant.

(f) The licensing fee will not be refunded once the Office of Licensing issues the center a license.

### 10:122-2.2 Issuance of a license

(a) The Office of Licensing shall issue a regular license to a center that has achieved full compliance with all applicable provisions of this manual.

(b) If the Office of Licensing determines that a center is in substantial compliance with, but does not meet all applicable provisions of this manual, and provided that there is no serious or imminent hazard to the health, safety, well-being, and development of the children, the Office of Licensing shall issue a temporary license to the center and indicate in writing the steps the center must take to secure a regular license. When a center applies for its first license, a temporary license shall not be issued until the center has submitted to the Office of Licensing a satisfactory Certificate of Occupancy and documentation of compliance with State requirements, as specified in N.J.A.C. 10:122-5.1 through 5.5.

(c) A temporary license may be issued for a period not to exceed six months. The Office of Licensing may issue as many temporary licenses as it deems necessary. However, a center shall not operate pursuant to temporary licenses for more than 18 months.

(d) Each licensing period, which may include the issuance of one or more temporary licenses and/or one regular license, shall be three years.

1. In determining the expiration date of the first regular license, the Office of Licensing shall compute the three-year licensing period from the date of issuance of the first temporary or regular license.

2. In determining the expiration date of a renewal regular license, the Office of Licensing shall compute the three-year licensing period from the date on which the center's previous regular license expired.

(e) The license shall be posted in a prominent location within the center and in each building associated with the center.

(f) (No change.)

(g) A facility or program caring for children shall not claim in advertising, or in any written or verbal announcement or presentation, to be a licensed center unless it has secured a license from the Office of Licensing.

(h) A center shall not claim that it is licensed by any State department or agency other than the New Jersey Department of Children and Families, or that it is accredited by any State department.

## 10:122-2.3 Location of a center

(a) The license shall be issued to a specific center sponsor/sponsor representative at a specific location and shall not be transferable.

(b) When two or more buildings are, or will be, utilized to accommodate centers operated by the same sponsor/sponsor representative, the sponsor/sponsor representative shall apply to the Office of Licensing for either:

1. (No change.)

2. A single license covering all the buildings that comprise a single center provided that:

i.-ii. (No change.)

iii. The Office of Licensing determines that issuance of a single license would not be detrimental to the health, safety, well-being, and development of the children served.

(c) A center shall not be located near or adjacent to areas determined by the Office of Licensing to be hazardous to the physical health and safety of the children.

(d) The requirements for co-location of a center within a multi-use building are as follows:

1. The sponsor/sponsor representative of a center that is, or seeks to be, co-located in a multi-use building shall indicate on its application the nature of the co-location.

2. Prior to approving the site, the Office of Licensing shall determine that the multi-use site does not pose a serious risk to the health, safety, or well-being of the children.

3. The Office of Licensing may require the center to:

i.-iii. (No change.)

4. The sponsor/sponsor representative of a center that has been approved to be located in a multi-use building shall notify the Office of Licensing of any change in use by other occupants of the building, as specified in N.J.A.C. 10:122-3.2(a).

## 10:122-2.4 Denying, suspending, revoking, or refusing to renew a license or a Certificate of Life/Safety Approval

(a) The Office of Licensing may deny an application or suspend, revoke, or refuse to renew a license or a Certificate of Life/Safety Approval for good cause, including the following, as applicable:

1.-3. (No change.)

4. Refusal to furnish the Department with files, reports, or records, as required by this manual;

5. Refusal to permit an authorized representative of the Department to gain admission to the center and/or to conduct an inspection or investigation during the center's operating hours;

6. Any activity, policy, or staff conduct that adversely affects or presents a serious hazard to the education, health, safety, well-being, or development of a child attending a center, or that otherwise demonstrates [page=639] unfitness by a sponsor/sponsor representative or staff member(s) to operate a center;

7. Failure to provide developmental activities that meet the physical, social, emotional, and cognitive needs of the children served;

8. Failure by the sponsor/sponsor representative to secure and maintain on file conviction disclosures, as specified in N.J.A.C. 10:122-4.1, Child Abuse Record Information (CARI) background checks, as specified in N.J.A.C. 10:122-4.9, or Criminal History Record Information (CHRI) fingerprint background checks, as specified in N.J.A.C. 10:122-4.10;

9. A determination by the Department's Institutional Abuse Investigation Unit that children in the center are at risk of harm;

10. Refusal by the sponsor/sponsor representative to consent to a Child Abuse Record Information background check for himself or herself, or to terminate the employment of a staff member who refuses to consent to a Child Abuse Record Information background check;

11. Refusal by the sponsor/sponsor representative to terminate the employment of a staff member when a Child Abuse Record Information background check reveals that an incident of child abuse or neglect has been substantiated against the staff member;

12. A Child Abuse Record Information background check that reveals that an incident of child abuse or neglect has been substantiated against the sponsor/sponsor representative; or

13. (No change.)

(b) The Office of Licensing shall provide written notice to the sponsor/sponsor representative if it intends to deny an application or suspend, revoke, or refuse to renew a license or a Certificate of Life/Safety Approval. The notice shall specify the Office of Licensing's reasons for such action.

(c) If the Office of Licensing suspends a center's license or Certificate of Life/Safety Approval to prevent the imminent risk of harm to children served by the center, the Office of Licensing may reinstate the suspended license or Certificate of Life/Safety Approval upon the center's compliance with all applicable provisions of this manual.

(d) If the Office of Licensing denies an application or revokes or refuses to renew a center's license or Certificate of Life/Safety Approval, as specified in (a) above, the sponsor/sponsor representative of the center shall be prohibited from reapplying for a license or a Certificate of Life/Safety Approval for one year from the date of the denial, revocation, or refusal to renew. After the one-year period has elapsed, the sponsor/sponsor representative may submit to the Office of Licensing a new application for a license or a Certificate of Life/Safety Approval.

(e) Each license and each Certificate of Life/Safety Approval issued by the Office of Licensing to a center is the property of the State of New Jersey. If the Office of Licensing suspends or revokes a license or a Certificate of Life/Safety Approval, the center shall return the license or Certificate of Life/Safety Approval to the Office of Licensing immediately.

(f) If the Office of Licensing determines to suspend, revoke, or refuse to renew the center's license or Certificate of Life/Safety Approval, the Office of Licensing shall notify the parent of each enrolled child of the action.

1. Upon notification by the Office of Licensing of an action against the center's license or Certificate, the center shall provide to the Office of Licensing the name and mailing address of each child's parent.

2. Within 20 days after notifying the center of the action, the Office of Licensing shall:

i.-iv. (No change.)

#### 10:122-2.5 Administrative hearings

(a) Before the Office of Licensing's decision to deny an application or suspend, refuse to renew, or revoke a center's license or Certificate of Life/Safety Approval becomes effective, the Office of Licensing shall afford the center an opportunity to request an administrative hearing, pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(b) As long as the Department determines that the children are not at risk and no serious or imminent hazards exist, the Office of Licensing may permit a center that has requested an administrative hearing, as specified in (a) above, to continue to operate until a final decision is rendered as a result of the hearing.

#### 10:122-2.6 Complaints

(a) Whenever the Office of Licensing receives a report questioning the licensing status of a program or center or alleging that a licensed center is violating provisions of this manual, the Office of Licensing shall ensure that the allegation is promptly investigated to determine whether the complaint is substantiated.

(b) After the report of the investigation has been completed, the Office of Licensing shall notify the sponsor/sponsor representative in writing of the results of the investigation, pursuant to the State Open Public Records Law, N.J.S.A. 47:1A-1 et seq., except for any information not permitted to be disclosed pursuant to the State Child Abuse and Neglect Law, N.J.S.A. 9:6-8.10a.

(c) Whenever the Department, through its Office of Licensing, Institutional Abuse Investigation Unit, or district offices conducts complaint investigations, the center shall cooperate with all Department investigators.

#### 10:122-2.7 Public access to the Office of Licensing's records

Licensing files maintained by the Office of Licensing are public records and shall be readily accessible for examination by any person, under the direction and supervision of the Office of Licensing, except when public access to records is restricted, in accordance with the Open Public Records Law or other applicable statutes.

#### 10:122-2.8 Procedures for securing a Certificate of Life/Safety Approval

(a) A center that is eligible for a Certificate of Life/Safety Approval, as specified in N.J.A.C. 10:122-1.1(c), may apply for and secure such a Certificate from the Office of Licensing by complying with all provisions of N.J.A.C. 10:122-2.1 through 2.8, except for 10:122-2.1(c) and (d); and with all provisions of N.J.A.C. 10:122-4.3, 4.9, 4.10, 5.1 through 5.5, 6.6, 7.5, 7.7, 7.8, 7.10, and 9.1 through 9.8.

(b) The applicant shall submit to the Office of Licensing a \$ 110.00 fee in the form of a check or money order made payable to the "Treasurer, State of New Jersey," along with the completed application for a Certificate of Life/Safety Approval.

(c) When an applicant is the sponsor/sponsor representative of a licensed child care center and seeks to operate a seasonal or short-term program, as specified in N.J.A.C. 10:122-1.1(c)1, at the same site, the applicant shall submit an application for a Certificate of Life/Safety Approval with no additional fee required. The sponsor/sponsor representative shall receive a Certificate of Life/Safety Approval in addition to a license.

(d) The Office of Licensing shall review the application and accompanying materials and conduct an on-site inspection of the center to determine whether it meets all applicable provisions of this manual as specified in (a) above.

1. If the center is found to be in full compliance, the Office of Licensing shall issue a Regular Certificate of Life/Safety Approval to the center.

2. If the center is found to be in substantial compliance, and provided that there is no serious or imminent hazard to the health, safety, well-being, and development of the children, the Office of Licensing shall issue a Temporary Certificate of Life/Safety Approval.

3. When a center applies for its first Certificate of Life/Safety Approval, a Temporary Certificate of Life/Safety Approval shall not be issued until the center has submitted to the Office of Licensing a satisfactory Certificate of Occupancy and documentation of compliance with State requirements, as specified in N.J.A.C. 10:122-5.1 through 5.5.

### SUBCHAPTER 3. CENTER ADMINISTRATION

#### 10:122-3.1 Administrative responsibility

(a) The sponsor/sponsor representative shall be legally responsible and held accountable by the Office of Licensing for the overall operation of the center and for ensuring the center's compliance with all applicable provisions of this manual.

(b) When the sponsor is an entity owned or operated by two or more individuals, a corporation\*,\* or governing board, the sponsor shall designate \*[one of those]\* **\*an\*** individual\*[s]\* to represent the interests [page=640] and act on behalf of the sponsor. For school-age child care programs, the sponsor's representative shall have a bachelor's degree.

#### 10:122-3.2 Reporting requirements

(a) The center shall notify the Office of Licensing verbally of any of the following changes or events by the next working day after the center learns of their occurrence:

1.-4. (No change.)

5. Proposed use of emergency space, including relocation or use of rooms not approved by local municipal officials or by the Office of Licensing, as specified in N.J.A.C. 10:122-5.2(q); and

6. Any conviction(s) or guilty plea(s) of the sponsor/sponsor representative, director, or any staff member, as specified in N.J.A.C. 10:122-4.1(b)3, (c)2, and (d)2.

(b) The center shall notify the Office of Licensing verbally at least three working days in advance of any proposed change to the licensing information previously submitted to the Office of Licensing on the completed application, including, but not limited to, changes in location and in keeping with the requirements specified at N.J.A.C. 10:122-5.2(i). The center shall notify the Office of Licensing in writing within 30 calendar days of any such change(s).

#### 10:122-3.3 Center records

(a) Requirements for access to center records are as follows:

1. The center's records shall be open for inspection by authorized representatives of the Office of Licensing.

2. The center's records shall be open for inspection by authorized representatives of the Department's Institutional Abuse Investigation Unit (IAIU) and, provided that they may only secure information about children under the Department's supervision.

(b) (No change.)

#### 10:122-3.4 Comprehensive general liability insurance

The sponsor/sponsor representative shall secure comprehensive general liability insurance coverage for the center and shall maintain on file a copy of the insurance policy or documentation of current insurance coverage.

#### 10:122-3.5 Telephone requirements

(a) (No change.)

(b) The center shall provide parents of all enrolled children with its telephone number, either in writing or by e-mail.

#### 10:122-3.6 Information to Parents document

(a) The center shall give to the parent(s) of every enrolled child and to every staff member a written Information to Parents document designated by the Office of Licensing and indicating that the center is required to:



1. Be licensed by the Office of Licensing, Department of Children and Families;
- 2.-4. (No change.)
5. Indicate how parents can secure a copy of the manual and obtain information about the licensing process from the Office of Licensing;
6. Make available to parents, upon request, the Office of Licensing's Life/Safety and Program Inspection/Violation and Complaint Investigation Summary report(s) on the center, as well as any letters of enforcement or other actions taken against the center during the center's current licensing period;
7. Post a listing or diagram of those rooms and/or areas that have been approved by the Office of Licensing for children's use;
8. Comply with the inspection/investigation functions of the Department, including the interviewing of staff members and children;
9. Afford parents the opportunity and time to review and discuss with the center director or sponsor/sponsor representative any questions or concerns about the policies and procedures of the center or whether the center is in compliance with all applicable provisions of the manual;
10. Advise parents that if they believe or suspect that the center is violating any requirement of the manual, they may report such alleged violations to the center sponsor/sponsor representative or director or to the Office of Licensing;
- 11.-14. (No change.)
15. Indicate through this document that any person who has reasonable cause to believe that a child has been or is being subjected to any form of hitting, corporal punishment, abusive language, ridicule, or harsh, humiliating, or frightening treatment, or any other kind of child abuse, neglect, or exploitation by any adult, is required by State law to report such allegations to the State Central Registry Hotline (1-877 NJ ABUSE/1-877-652-2873) immediately, and indicate that such reports may be made anonymously;
16. Indicate through this document how parents and staff members may secure information about child abuse and/or neglect from the Department;
- 17.-19. (No change.)
20. Provide parents with a copy of the center's policy on the expulsion of children from enrollment;
21. Inform parents that the center is required to provide reasonable accommodations for children and/or parents with disabilities and to comply with the New Jersey Law Against Discrimination (LAD), P.L. 1945, c. 169 (N.J.S.A. 10:5-1 et seq.), and the Americans with Disabilities Act (ADA), P.L. 101-336 (42 U.S.C. §§ 12101 et seq.), and indicate that anyone who believes the center is not in compliance with these laws may contact the Division on Civil Rights in the New Jersey Department of Law and Public Safety for information about filing an LAD claim at (609) 292-4605 (TTY users may dial 711 to reach the New Jersey Relay Operator and ask for (609) 292-7701), or may contact the United States Department of Justice for information about filing an ADA claim at (800) 514-0301 or (800) 514-0383 (TTY); and
22. Inform parents that the center is required to maintain and update at least annually, a list from the Consumer Product Safety Commission (CPSC) regarding unsafe products and make the list available to staff and parents and/or provide parents with the CPSC website at <http://www.cpsc.gov/cpscpub/prerel/prerel.html>.
- (b) (No change.)

#### SUBCHAPTER 4. STAFF REQUIREMENTS

10:122-4.1 General requirements for sponsor/sponsor representative, director, and all staff members

(a) The sponsor/sponsor representative, director, and every staff member shall:

1.-3. (No change.)

(b) Prior to hiring or utilizing a director or a staff member who will be working at the center on a regularly scheduled basis, the sponsor/sponsor representative or director shall complete and maintain on file for each individual a Staff Records Checklist, signed by the sponsor/sponsor representative or director and designated by the Office of Licensing, indicating that the center has obtained documentation of the following:

1.-7. (No change.)

8. Two written and/or verbal references on each individual.

i. (No change.)

ii. The verbal references shall be documented in writing by the sponsor/sponsor representative or director.

(c) The sponsor/sponsor representative shall:

1. (No change.)

2. Disclose to the Office of Licensing, in writing, the following:

i. The sponsor/sponsor representative's name, address, and telephone number;

ii. The sponsor/sponsor representative's signed statement of the presence or absence of conviction(s) for crimes or disorderly persons offenses; and

iii. Information about and circumstances surrounding any previous denial, suspension, revocation, or non-renewal of a license to own or operate a center either by the Office of Licensing or by the licensing agency of another state.

(d) (No change.)

(e) Failure by a sponsor/sponsor representative, director, or other staff member to comply with the requirements specified in (a) through (c) above and/or any evidence demonstrating unfitness or unsuitability to fulfill the responsibilities and duties of his or her position or to serve or deal with children in an appropriate manner shall constitute grounds for one or more of the following actions:

1. Removal of the sponsor/sponsor representative, director, or other staff member from his or her position;

[page=641] 2.-4. (No change.)

(f) Evidence of a previous denial, suspension, revocation, or non-renewal of a license, as specified in (c)2iii above, shall not in and of itself result in an automatic disqualification of the sponsor/sponsor representative or prospective sponsor/sponsor representative to secure a license for another or the same center, but shall constitute grounds for the Office of Licensing to investigate the circumstances that led to the original negative action and to make a determination as to whether to reject or process the new application for a license.

10:122-4.2 Staffing requirements

(a) Each center shall have the following staff members:

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1. A sponsor/sponsor representative, who may also serve as the director and/or as one of the staff members specified in (a)3 below;

2.-4. (No change.)

(b)-(c) (No change.)

(d) Programs operating at a capacity beyond 540 children shall have an additional program supervisor, as specified in N.J.A.C. 10:122-4.6(d) for each additional group of 100 children.

#### 10:122-4.3 Staff/child ratios and supervision

(a) The children shall be supervised by a staff member at all times, including during outdoor activities, rest and sleep, toileting procedures, and walking through hallways, as appropriate for their ages and developmental needs, the physical setting, and the nature of the activity.

1. The center shall develop and implement a Office of Licensing-approved method to keep track of the location and ensure the safety of all children at all times when under the center's supervision, including the transfer of supervision from and to parents during arrival and departure and the utilization of off-site locations, including playgrounds and field trips.

2. (No change.)

(b) There shall be a minimum of two staff members accompanying children on any field trip, outing, or special event involving children away from the center, even when the appropriate staff/child ratios allow fewer than two staff members.

(c)-(l) (No change.)

#### 10:122-4.5 Staff responsibilities

(a) The sponsor/sponsor representative shall:

1.-3. (No change.)

(b) (No change.)

(c) When the director is absent from the center for any length of time, he or she shall designate a responsible person to assume and carry out all responsibilities of the director, as specified in (b) above.

1. (No change.)

2. The director shall be scheduled to work at the center at least 50 percent of the center's operating hours.

(d) When the director or any head teacher or required group teacher or required program supervisor is away from the center for six or more weeks, the sponsor/sponsor representative or director shall hire and/or designate a staff member(s) who possesses the applicable staff qualifications for the position, as specified in N.J.A.C. 10:122-4.6, to assume the applicable responsibilities of the position, as specified in this section.

(e) For early childhood programs, the following shall apply:

1.-3. (No change.)

4. The group teacher(s) shall be scheduled and have the authority and responsibility to:

i. Work at the center for at least 75 percent of the center's daily operating hours, or at least six hours a day, whichever is less;

Recodify existing i. and ii. as ii. and iii. (No change in text.)

5.-6. (No change.)

7. For centers using a consulting head teacher, the following shall apply:

i.-ii. (No change.)

iii. The center shall maintain on file a written record of:

(1) The date, time, purpose, and nature of each visit by the consulting head teacher; and

(2) The consulting head teacher's observation of the program and evaluation of the staff member in charge of the program.

(f) (No change.)

#### 10:122-4.6 Staff qualifications

(a) The center shall maintain on file a Staff Records Checklist designated by the Office of Licensing, as specified in N.J.A.C. 10:122-4.1(b), indicating that the center has obtained documentation of the applicable staff education and experience, as specified in (b) through (d) below.

(b) The director shall meet the following qualification requirements:

1.-3. (No change.)

(c) For early childhood programs, the following shall apply:

1. For all centers, the head teacher or consulting head teacher shall meet the qualification requirements specified in one of the \*[six]\* **\*seven\*** options set forth in the chart below for education and experience:

#### OPTIONS FOR MEETING THE HEAD TEACHER QUALIFICATIONS

<b>Option</b>	<b>Educational Credentials</b>	<b>and</b>	<b>College Credits and Experience</b>
---------------	--------------------------------	------------	---

...

G	Head Teacher endorsement from the New Jersey Registry for Childhood Professionals, Professional Impact New Jersey		
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i.-ii. (No change.)

iii. The Office of Licensing may grant conditional approval for a head teacher who has the required educational credentials but has insufficient college credits or experience to meet all the qualifications specified in the chart in (c)1 above.

(1)-(3) (No change.)

2. (No change.)

3. The group teacher shall meet the following requirements for experience and education:

i. (No change.)

ii. One of the options set forth in the chart below for educational credentials:

OPTIONS FOR MEETING THE GROUP TEACHER EDUCATIONAL QUALIFICATIONS	
Option	Educational Credentials
...	
E	Group Teacher endorsement from the New Jersey Registry for Childhood Professionals, Professional Impact New Jersey
F	New Jersey Infant/Toddler Credential <b>*administered*</b> through Professional Impact New Jersey

4.-5. (No change.)

(d) For school-age child care programs, the following shall apply:

1. The program supervisor shall meet the qualification requirements specified in one of the applicable options set forth in the chart below for education, training, and experience, based on the center's licensed capacity:

REQUIREMENTS FOR PROGRAM SUPERVISOR QUALIFICATIONS				
Require- ment	Licensed Capacity	Educational Credentials	and	Training and Experience
...				
C	31 or more	High School Diploma or General Education Development (GED) Diploma	6 hours (in child care) AND 3 hours (in child program management)	4 years
		-OR-		
		Certificate as a Recreation Technician from the National Recreation and Park Association (NRPA)	6 hours (in child care) AND 3 hours (in child program management)	2 years
		-OR-		

REQUIREMENTS FOR PROGRAM SUPERVISOR  
QUALIFICATIONS

Child Development Associate (CDA) Certificate; Group Teacher Approval; or 15 college credits in child development, education, recreation, psychology, health care, nursing, or any other field related to child growth and development	6 hours (in child care) AND 3 hours (in child program management)	2 years
-OR-		
15 college credits in areas not related to children	6 hours (in child care) AND 3 hours (in child program management)	3 years
-OR-		
Associate's Degree in any field	6 hours (in child care) AND 3 hours (in child program management)	2 years
-OR-		
Bachelor's Degree in a child related field; or Office of Licensing Head Teacher Approval	3 hours (in child program management)	1 year
-OR-		
Certificate as a Recreation Administrator, Recreation Supervisor, or	3 hours (in child program management)	1 year

REQUIREMENTS FOR PROGRAM SUPERVISOR  
QUALIFICATIONS

Recreation  
Professional

-OR-

Bachelor's Degree in an unrelated field	6 hours (in child care) AND 3 hours (in child program management)	1 year
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D            School Age Program Supervisor endorsement from the New Jersey  
Registry for Childhood Professionals, Professional Impact New  
Jersey

[page=642] 2. The training specified in the chart above shall:

- i. (No change.)
- ii. Be completed within the nine months following Office of Licensing approval as program supervisor;
- iii.-iv. (No change.)

3. Child care training shall include all of the following:

- i.-ix. (No change.)

4. Program management training shall include all of the following:

- i.-v. (No change.)

5. (No change.)

10:122-4.7    Staff orientation and development

(a) The center shall ensure that all newly hired staff members receive orientation upon being hired and complete all of the following areas within two weeks of his or her date of hire and prior to working without direct supervision by an approved staff person 18 years or older:

- 1.-8. (No change.)

(b) The center shall ensure that all staff members who work at the center for at least 20 percent of the center's weekly operating hours complete 10 hours of continuing staff development each year, except as specified in (d) below. Each staff member shall complete at least two hours of staff development each year in each of the three following areas:

1. Child growth and development, including, but not limited to:

- i.-iv. (No change.)

v. Other Office of Licensing-approved areas;

2. Positive guidance and discipline, including, but not limited to:

i.-iv. (No change.)

v. Other Office of Licensing-approved areas; and

3. Health and safety procedures, including, but not limited to:

i.-viii. (No change.)

ix. Other Office of Licensing-approved areas.

(c) For newly hired staff members, the orientation specified in (a) above may be included in the required \*[eight]\* **\*10\*** hours of staff development specified in (b) above.

(d) In lieu of the child care staff development specified in (b) above, the director, head teacher(s), group teacher(s), and program supervisor(s) shall each complete 20 hours of staff development each year in one or more of the following:

1. Professional development \*[offered through Professional Impact New Jersey-approved]\* **\*related to the\*** New Jersey Administrators' Credential **\*approved by Professional Impact New Jersey,\*** or the National Administrator Credential offered by the National Child Care Association;

2. The National Administrator Credential offered by the National Child Care Association or Professional Impact New **\*[Jersey, Professional Development Related]\* **\*Jersey-approved professional development related\***** to the New Jersey Infant/Toddler Credential; or

3. Equivalent staff development in three or more of the following areas:

i.-ii. (No change.)

[page=643] iii. Educational, physical activity, and special needs programming and program development;

iv. (No change.)

v. Legal issues, including ADA guidelines;

vi.-ix. (No change.)

(e) Directors shall complete staff development in understanding licensing regulations as provided by the Office of Licensing within 90 days of hire. Such staff development may be included in the required 20 hours of staff development specified in (d) above.

(f) The staff development specified in (a) through (d) above shall:

1.-2. (No change.)

3. Be provided either by the center or by another source such as a college or university, community or professional organization, professional consultant, State agency, or an instructor approved by the Instructor Approval System of Professional Impact of New Jersey; and

4. Be presented by persons with relevant expertise. The staff development may include materials approved by the center, such as printed materials, television broadcasts, audio-visual materials, or websites.



(g) (No change.)

10:122-4.8 Special requirements to prevent child abuse and neglect

(a) The sponsor/sponsor representative, director, or any staff member shall verbally notify the State Central Registry Hotline (1-877 NJ ABUSE/1-877-652-2873) immediately whenever there is reasonable cause to believe that a child has been subjected to abuse and/or neglect by a staff member(s), or any other adult, pursuant to the Child Abuse and Neglect Law (see N.J.S.A. 9:6-8.9, 8.10, 8.13, and 8.14).

(b) For centers serving children under the Department's supervision, the sponsor/sponsor representative, director, or any staff member shall report any suspected abuse or neglect of the child by his or her parent(s) or other family members to the State Central Registry Hotline (1-877 NJ ABUSE/1-877-652-2873).

(c) In addition to the reporting requirements specified in (a) above, the sponsor/sponsor representative, director, or any staff member shall advise the parent(s) of the occurrence of any unusual incident(s) that occurred at the center and that might indicate possible abuse and/or neglect involving the child. Such notification shall be made on the same day on which the incident occurred. Such incidents may include, but are not limited to, unusual sexual activity; violent or destructive behavior; withdrawal or passivity; or significant change(s) in the child's personality, behavior, or habits. The center shall maintain on file a record of such incidents and documentation that parents have been informed of them.

(d) The Department, during the course of investigating an allegation of child abuse and/or neglect, may determine that corrective action is necessary to protect the children whenever:

1. The sponsor/sponsor representative, director, or staff member has been found by the Department's Institutional Abuse Investigation Unit (IAIU) to pose a risk of harm to children; and/or
2. The sponsor/sponsor representative, director, or staff member has committed an act of child abuse and/or neglect, as substantiated by the IAIU; and/or
3. The sponsor/sponsor representative, director, or staff member has been convicted of such acts.

(e) Whenever the Department makes a determination that corrective action is necessary to protect the children, the sponsor/sponsor representative shall carry out the Department's recommendation for corrective action. Such corrective action may include, but not be limited to:

1. Removal or suspension of the affected sponsor/sponsor representative, director, or staff member(s) from the center or reassignment to other duties that do not involve contact with the children; or
2. When the sponsor/sponsor representative, director, or staff member resides at the facility where the center is located, removal of the affected employee from the premises for a period of time extending from one hour prior to the arrival of the children until one hour after the children have left.

(f) Such suspension, removal, or reassignment, as specified in (e)1 and 2 above, shall remain in effect until the results of the Department's investigation have been determined, and a final decision in the matter has been rendered by the Office of Licensing.

(g) If an allegation of child abuse and/or neglect is substantiated against a staff member, the sponsor/sponsor representative shall immediately terminate the staff member's employment at the center. If an allegation of child abuse and/or neglect is substantiated against the sponsor/sponsor representative, the Department will revoke or refuse to renew the license or Certificate of Life/Safety Approval, as applicable.

10:122-4.9 Child Abuse Record Information background check procedures

(a) As a condition of securing a new or renewal license or Certificate of Life/Safety Approval, the sponsor/sponsor representative shall provide for himself or herself, and shall obtain from all staff members who are or will be working at the

center on a regularly scheduled basis, written consent for the Department to conduct a Child Abuse Record Information (CARI) background check to determine whether an incident of child abuse and/or neglect has been substantiated against any such person.

1. The sponsor/sponsor representative and each staff member shall complete a signed consent form provided by the Department that indicates the identifying information necessary to conduct a CARI background check, including the person's name, address, date of birth, sex, race, and Social Security number. Pursuant to the Federal Privacy Act of 1974 (P.L. 93-579), the Department will advise each such person that the disclosure of his or her Social Security number is voluntary, and that the Social Security number will only be used for the purpose of conducting a CARI background check.

2. If a staff member refuses to consent to a CARI background check, the sponsor/sponsor representative shall immediately terminate the staff member's employment at the center.

3. If the sponsor/sponsor representative refuses to consent to a CARI background check, the Department shall deny the application or suspend, revoke, or refuse to renew the License or Certificate of Life/Safety Approval, as applicable. The sponsor/sponsor representative may appeal the denial, suspension, revocation, or refusal to renew to the Department, as specified in N.J.A.C. 10:122-2.5.

(b) When the center applies for a new or renewal license or Certificate of Life/Safety Approval, the sponsor/sponsor representative shall submit to the Department the completed CARI consent forms for all staff members who are or will be working at the center on a regularly scheduled basis.

1. Within two weeks after a new staff member begins working at the center, the sponsor/sponsor representative shall submit to the Department a completed CARI consent form for the new staff member.

2. Until the results of the CARI background check for a new staff member have been received from the Department, the center shall ensure that a current staff member is present whenever the new staff member is caring for children at the center.

(c) When the sponsor/sponsor representative submits the CARI consent forms to the Department, the sponsor/sponsor representative shall enclose payment of \$ 10.00 for each CARI background check, in the form of a check or money order from the center made payable to "Treasurer, State of New Jersey." The center may use its own discretion in offering to pay or reimburse the staff member for the cost of the CARI background check.

(d) Upon receipt of the completed CARI consent forms and payment from the center, the Department will conduct a search of its records for substantiated incidents of child abuse and/or neglect. The Department will consider incidents of child abuse and/or neglect that were substantiated on or after June 29, 1995, to ensure that the perpetrator has had an opportunity to appeal a substantiated finding of child abuse and/or neglect; except that the Department may consider substantiated incidents prior to that date if the Department, in its judgment, determines that the perpetrator poses a risk of harm to children in a child care center.

(e) Within 45 working days of receipt of the completed CARI consent forms and payment from the center, the Department will inform the sponsor/sponsor representative in writing as to whether a substantiated incident of child abuse and/or neglect by the sponsor/sponsor representative or a staff member has been found. If such an incident has [page=644] been found, the Department will inform the sponsor/sponsor representative in writing of the name of the perpetrator.

(f) If the CARI background check does not reveal any substantiated incident of child abuse and/or neglect by the sponsor/sponsor representative or a staff member, the Department may issue or renew the regular license or Certificate of Life/Safety Approval, provided that all other applicable requirements of this chapter have been met.

(g) If the CARI background check reveals that an incident of child abuse and/or neglect has been substantiated against a staff member, the sponsor/sponsor representative shall immediately terminate the staff member's employment at the center.

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1. The sponsor/sponsor representative shall notify the staff member in writing that the termination of employment is based on a substantiated incident of child abuse and/or neglect.

2. If the incident was substantiated prior to June 29, 1995, the sponsor/sponsor representative shall notify the staff member in writing that the staff member may appeal the termination of employment to the Department.

(h) If the CARI background check reveals that an incident of child abuse and/or neglect has been substantiated against the sponsor/sponsor representative, the Department will deny the application or revoke or refuse to renew the license or Certificate of Life/Safety Approval, as applicable. The sponsor/sponsor representative may appeal the denial, revocation, or non-renewal to the Department, as specified in N.J.A.C. 10:122-2.5.

(i) In keeping with the confidentiality provisions of the State Child Abuse and Neglect Law, N.J.S.A. 9:6-8.10a, the sponsor/sponsor representative and all staff members shall keep all completed CARI consent forms and related correspondence confidential.

1. (No change.)

2. When a substantiated incident of child abuse and/or neglect by the sponsor/sponsor representative or a staff member has been found by the Department, the sponsor/sponsor representative and the staff member shall not disclose to any other person the identity of the perpetrator or any other information concerning the incident.

#### 10:122-4.10 Criminal History Record Information background check procedures

(a) As a condition of securing a license or Certificate of Life/Safety Approval, the sponsor/sponsor representative shall ensure that a Criminal History Record Information (CHRI) fingerprint background check is completed for himself or herself, and for all staff members at least 18 years of age who are or will be working at the center on a regularly scheduled basis, to determine whether any such person has been convicted of a crime, as specified in P.L. 2000, c. 77 (N.J.S.A. 30:5B-6.10 to 6.17).

1. The sponsor/sponsor representative and each staff member shall complete the electronic fingerprinting process through the vendor authorized by the State to conduct CHRI background checks through the Division of State Police in the Department of Law and Public Safety and the Federal Bureau of Investigation.

2. The sponsor/sponsor representative and each staff member shall provide the identifying information and documentation to the State-authorized vendor as necessary to conduct a CHRI background check, including the individual's name, address, date of birth, place of birth, citizenship, sex, race, height, weight, hair color, eye color, Social Security number, and the center's license number.

3. If a staff member refuses to consent to a CHRI background check, the sponsor/sponsor representative shall immediately terminate the staff member's employment at the center.

4. If the sponsor/sponsor representative refuses to consent to a CHRI background check, the Department shall deny the application or suspend, revoke, or refuse to renew the license or Certificate of Life/Safety Approval, as applicable. The sponsor/sponsor representative may appeal the denial, suspension, revocation, or refusal to renew to the Department, as specified in N.J.A.C. 10:122-2.5.

5. (No change.)

(b) When the center applies for a new license or Certificate of Life/Safety Approval, or its first renewal license or Certificate of Life/Safety Approval subsequent to January 26, 2001 (the effective date of P.L. 2000, c. 77), the sponsor/sponsor representative shall ensure that each staff member at least 18 years of age who is or will be working at the center on a regularly scheduled basis completes the CHRI fingerprinting process specified in (a) above.

1. Within two weeks after a new staff member begins working at the center, the sponsor/sponsor representative shall ensure that the new staff member completes the CHRI fingerprinting process specified in (a) above.

2. Until the center receives the results of the CHRI background check from the Department for a new staff member, the center shall ensure that a current staff member is present whenever the new staff member is caring for children at the center.

(c) (No change.)

(d) Upon receipt of the results of the CHRI background check from the Division of State Police and the Federal Bureau of Investigation, the Department shall inform the sponsor/sponsor representative and the staff member in writing as to whether any record of conviction by the sponsor/sponsor representative or staff member has been found.

(e) If the CHRI background check does not reveal any record of conviction by the sponsor/sponsor representative or a staff member, the Department may issue or renew the regular license or Certificate of Life/Safety Approval, provided that all other applicable requirements of this manual have been met.

(f) If the CHRI background check reveals a record of conviction by the sponsor/sponsor representative or a staff member, the Department shall inform the convicted individual of the opportunity to challenge the accuracy of the CHRI.

(g) If the CHRI background check reveals a record of conviction by a staff member for a crime or offense specified in (c) above, the sponsor/sponsor representative shall immediately terminate the staff member's employment at the center.

(h) If the CHRI background check reveals a record of conviction by the sponsor/sponsor representative for a crime or offense specified in (c) above, the Department shall deny the application or revoke or refuse to renew the license or Certificate of Life/Safety Approval, as applicable.

(i) If the CHRI background check reveals a record of conviction by the sponsor/sponsor representative or a staff member for a crime or offense other than those specified in (c) above, the sponsor/sponsor representative or staff member may be eligible for employment at, or ownership, or sponsorship of, a child care center if the Department determines that the person has affirmatively demonstrated to the Department clear and convincing evidence of rehabilitation.

1. In determining whether a person has affirmatively demonstrated rehabilitation, the Department shall consider the following factors:

i.-viii. (No change.)

2. The Department shall make the final determination regarding the employment of a sponsor/sponsor representative or staff member with a criminal conviction.

(j) If the sponsor/sponsor representative has knowledge that criminal charges are pending against a staff member, the sponsor/sponsor representative shall promptly notify the Office of Licensing to determine whether any action concerning the staff member is necessary in order to ensure the safety of the children who attend the center.

(k) A center that has received an employment application from an individual or currently employs a staff member shall be immune from liability for acting upon or disclosing information about the staff member's disqualification or termination to another center seeking to employ that person, if the center has:

1. Received notice from the Department that the applicant or staff member, as applicable, has been determined by the Department to be disqualified from employment in a child care center pursuant to section 5 or 6 of P.L. 2000, c. 77 (N.J.S.A. 30:5B-6.14 or 6.15); or

2. (No change.)

(l) (No change.)

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## 10:122-5.1 State, county, and municipal government physical facility requirements

(a) A person seeking a license or a Certificate of Life/Safety Approval to operate a center shall comply with all applicable provisions of the New Jersey Uniform Construction Code, as specified in N.J.A.C. 5:23 \*[and]\* \*(\*hereinafter referred to as the \*\*\*NJUCC\*\*\*)\*.

1. For newly constructed buildings, for existing buildings whose construction code \*[use]\* group classification would change from that which it had been, or for existing buildings that require major alteration or renovation, the center shall obtain a Certificate of Occupancy (CO) issued by the municipality in which it is located, reflecting the center's compliance with the provisions of the NJUCC, and submit a copy of the CO to the Office of Licensing, for one of the following \*[use]\* group classifications:

i. E (Educational) for buildings accommodating children 2 1/2 years of age and/or older and having a total occupancy of six or more children;

ii. I-4 (Institutional) for buildings accommodating one or more children less than 2 1/2 years of age; or

iii. A-3 (Assembly) or one of the use group classifications specified in (a)1i or ii above for buildings accommodating school-age child care programs only.

2. Plan reviews for centers to be located in newly constructed buildings shall be submitted as follows:

i. In addition to submitting preliminary and final architectural drawings to the local construction official, a sponsor/sponsor representative that plans to construct a new or renovate an existing building for use as a center shall submit preliminary and/or final architectural drawings to the Office of Licensing for review and approval prior to beginning construction.

ii. The sponsor/sponsor representative shall submit to the Office of Licensing revised final architectural drawings containing all Office of Licensing-required items listed in the plan review, if any, and secure final approval from the Office of Licensing prior to beginning construction.

3. For buildings constructed after the adoption of the NJUCC (1977), whose construction code \*[use]\* group classification is already E, I-2, I-4, A-3, or A-4, and that have not had major alterations or renovations since receipt of the CO, the center shall obtain the CO issued by the municipality in which it is located at the time the building was originally constructed or approved for use in the NJUCC's E, I-2, I-4, A-3, or A-4 \*[use]\* group classification. The center shall submit a copy of the building's CO to the Office of Licensing.

4. For existing buildings whose use prior to the adoption of the NJUCC (before 1977) was and continues to be for a center and that have not had major alterations or renovations, the center shall obtain a Certificate of Continued Occupancy (CCO) issued by the municipality in which it is located, reflecting the building's compliance with provisions of the municipality's construction code requirements that were in effect at the time it was originally constructed or converted for use as a center. The center shall submit a copy of the building's CCO and the center's current fire safety inspection certificate to the Office of Licensing.

5. The center shall be permitted to obtain a valid fire safety inspection certificate issued by the municipality in which it is located, based on a fire inspection conducted within the preceding 12 months, and submit a copy of the certificate to the Office of Licensing in lieu of a CO or CCO, if the center serves only children 2 1/2 years of age or older and is located in a public school building that is used as a public school.

6. The center shall obtain a new CO issued by the local municipality in which the center is located, and submit a copy to the Office of Licensing, reflecting the building's compliance with provisions of the applicable NJUCC \*[use]\* group classification, whenever the center:

i.-iv. (No change.)

7. Whenever a municipality grants to a center a written variation(s) from any of the requirements of the NJUCC, the Office of Licensing may accept such variation(s) as meeting the applicable requirement(s) of this manual.

i. If the Office of Licensing does not accept the variation, the non-acceptance shall be based on the best interests of the children in the center, and shall include consideration for their health and safety. The non-acceptance shall be based on the requirements of this manual only, and shall not preclude the municipality from continuing to grant the variation.

ii. If the center disagrees with the Office of Licensing, the center may seek a hearing in accordance with N.J.A.C. 10:122-2.5(a) and the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1, as implemented by the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(b)-(d) (No change.)

(e) A center that plans to locate or is already located in a hospital or other health care facility, as defined in the Health Care Facilities Planning Act, N.J.S.A. 26:2H-1 et seq., shall obtain a letter from the Department of Health \*[and Senior Services]\* indicating that Department's approval. The center shall submit a copy of the approval letter to the Office of Licensing.

#### 10:122-5.2 Physical plant requirements for all centers

(a) Indoor maintenance and sanitation requirements are as follows:

1.-7. (No change.)

8. Pesticides for indoor and outdoor use shall be used in accordance with the manufacturer's directions and in keeping with the applicable provisions specified in N.J.A.C. 7:30-10, Pesticide Control Code.

i. No pesticides shall be applied in or around a child care center during \*[normal]\* operating hours.

ii. Before applying pesticides, all toys and non-permanent play equipment shall be removed from outdoor play areas and/or indoor play areas.

Recodify existing 8.-10. as 9.-11. (No change in text.)

12. Install window guards, with approval of the local fire official, or provide an alternative method to ensure that children cannot fall out of windows.

13. Ensure that window blind cords and other cord/rope items that present risk of harm are inaccessible to children.

14. All balconies, rooftops, verandas, and/or all floor levels used by children that are above the first floor and subject the children to an open drop or atrium shall be protected by barriers consisting of safety glass, Plexiglas, or any other materials approved by the Office of Licensing. Such barriers shall extend at least five feet above the floor level.

Recodify existing 11.-12. as 15.-16. (No change in text.)

17. All televisions and computers shall be secured on a stable surface and shelving shall be secured and not be overloaded.

18. Ensure that microwave ovens, toaster ovens, and other portable devices used to heat or prepare food are out of children's reach, secured on a stable surface, and not in use when children are in the area in order to ensure the safety of children.

19. The center shall test for the presence of radon gas in each classroom on the lowest floor level used by children at least once every five years and shall post the test results in a prominent location in all buildings at the center, as specified in N.J.S.A. 30:5B-5.2.

20. The center shall comply with the provisions specified in P.L. 1999, c. 362 (N.J.S.A. 30:5B-5.5) requiring reports of drinking water tests to be posted in all buildings at the center when received from a water supply company or prepared by the center, if applicable.

(b) Outdoor maintenance and sanitation requirements are as follows:

1.-6. (No change.)

7. The center shall comply with the Playground Safety Subcode of the New Jersey Uniform Construction Code, as specified in N.J.A.C. 5:23-11, which requires playgrounds operated by any governmental entity, nonprofit entity, or private for-profit entity to meet the specifications for resilient surfacing and all other elements set forth in the Handbook for Public Playground Safety of the United States Consumer Product Safety Commission (CPSC).

i. (No change in text.)

ii.-iii. (No change.)

(c) (No change.)

(d) Heating requirements are as follows:

1. (No change.)

2. Steam and hot water pipes and radiators shall be protected by screens, guards, insulation, or any other suitable, non-combustible protective device.

[page=646] 3. The center shall not use portable liquid fuel-burning or wood-burning heating appliances or electric space heaters.

(e) All fans that are accessible to the children shall have a grille, screen, mesh, or other protective covering.

(f)-(g) (No change.)

(h) Lead paint precautions are as follows:

1. (No change.)

2. The center shall comply with the lead paint inspection requirements specified in (h)3 below, unless the center:

i. (No change.)

ii. Submits documentation to the Office of Licensing of a previous lead paint inspection conducted by a Lead Inspector/Risk Assessor, who is certified and employed as specified in (h)3 below, indicating the center is free of lead-based paint hazards; or

iii. Submits documentation to the Office of Licensing and the local department of health of:

(1)-(2) (No change.)

3. The center shall ensure that a lead paint inspection of all painted surfaces of the center is conducted by a Lead Inspector/Risk Assessor, who is certified by the New Jersey Department of Community Affairs (DCA) and employed by either a public health agency or a lead evaluation contractor certified by DCA, as specified in N.J.A.C. 5:17.

i. If the lead paint inspection indicates the center is free of lead-based paint hazards, the center shall submit documentation of the inspection results to the Office of Licensing and the local department of health.

ii. (No change.)

iii. The center shall submit documentation of the risk assessment results to the Office of Licensing and the local department of health.

4. If a lead paint risk assessment indicates the presence of a lead hazard, the center shall:

i. (No change.)

ii. Submit to the Office of Licensing and the local department of health a certificate of lead abatement issued by the local construction official, or other documentation as appropriate, reflecting that appropriate remedial action to abate the lead hazard has been completed; and

iii. (No change.)

5. If any area of the center is renovated or damaged after a lead paint risk assessment has been conducted, the center shall:

i. (No change.)

ii. Submit the results of the additional risk assessment to the Office of Licensing and the local department of health.

6. (No change.)

7. If a previous lead paint inspection indicates the presence of lead, or a lead paint risk management plan is in progress at the center, the center shall:

i. (No change.)

ii. Submit the results of the risk assessment to the Office of Licensing and the local department of health.

(i) Environmental condition precautions are as follows:

1. At the time of the initial application, any renewal application, relocation of an existing licensed center and, in the discretion of the Office of Licensing, any other time, the applicant/facility operator shall submit a written certification to the Office of Licensing indicating whether the building has ever housed a use that was classified under the Uniform Construction Code, N.J.A.C. 5:23, as any of the following:

i.-ii. (No change.)

iii. Group S - storage;

iv. Group B - dry cleaners or nail salons;

v. Group M - gas stations; or

vi. Group A - funeral home.

2. For those buildings that predate the Uniform Construction Code, the facility operator shall at minimum, conduct a Preliminary Assessment in accordance with the Department of Environmental Protection's Technical Requirements for Site Remediation (N.J.A.C. 7:26E) to determine whether the building ever housed a use that would have been classified as any of those uses had the Uniform Construction Code been in effect.



3. In the event that the building housed a use that was or would have been classified as any of those uses listed in (i)1 above, the facility operator shall certify in writing to the Office of Licensing that the site of the center:

i. Complies with the Madden legislation (P.L. 2007 c. 1), the Site Remediation Reform Act (N.J.S.A. 58:10C-1 et seq.), the Technical Requirements for Site Remediation (N.J.A.C. 7:26E), and the Department of Environmental Protection's Guidance Document for Environmental Guidance for all Childcare Facilities and Educational Institutions, incorporated by reference, as amended and supplemented, which can be found at <http://nj.gov/dep/srp/guidance>;

ii. That the facility operator has contacted the Department of Environmental Protection to determine what further steps, if any, are necessary to address the risks posed by the prior historical use, and the facility operator has complied with all recommended corrective actions;

iii. Has conducted an Indoor Environmental Health Assessment ~~\*[(IHEA)]\*~~ **\*(IEHA)\*** that has been performed by a Licensed Indoor Environmental Consultant in accordance with the Department of Health ~~\*[and Senior Services (DHSS)]\*~~ rules (N.J.A.C. 8:50); and

iv. Has submitted the ~~\*[IHEA]\*~~ **\*(IEHA)\*** to the ~~\*[DHSS]\*~~ **\*Department of Health\*** for review and evaluation of the indoor environmental conditions in the building where the center is located.

4. At the time of the initial application, any renewal application, relocation of an existing licensed center and, in the discretion of the Office of Licensing, any other time, the applicant/facility operator shall certify in writing that the center provides a potable water supply provided by a public community water system. If the facility or site is not provided a potable water supply by a public community water system, the applicant shall provide potable water sampling results demonstrating compliance with maximum contaminant levels for all contaminants required to be tested pursuant to N.J.A.C. 7:10-5 for public non-transient, non-community (NTNC) water systems, including radiological contaminants, regardless of whether they meet the definition of NTNC systems as defined at N.J.A.C. 7:10-1.3. This sampling shall have been conducted within three years of the date of application submission, except nitrates and coliform, for which the sampling shall have been conducted within 90 days of submitting the application.

5. At the time of the initial application, any renewal application, relocation of an existing licensed center and, in the discretion of the Office of Licensing, any other time, the applicant/facility operator shall certify in writing that the center complies with all existing Department of Children and Families regulatory requirements for child care centers with respect to radon, asbestos, and lead listed in (a)14 and (h) above and (j) below.

6. At the time of the initial application, any renewal application, relocation of an existing licensed center and, in the discretion of the Office of Licensing, any other time, the facility operator shall submit to the Office of Licensing a No Further Action letter, Child Care Facility Approval letter, Response Action Outcome letter, or other approval, which indicates that no further remediation is needed for the site from the Department of Environmental Protection, which indicates that no further remediation is needed for the site on which the center is located.

7. At the time of the initial application, any renewal application, relocation of an existing licensed center~~\*,\*~~ and, as determined by the Office of Licensing, on a case-by-case basis, the facility operator shall submit to the Office of Licensing a Safe Building Interior Certification or other approval issued by the Department of Health ~~\*[and Senior Services]\*~~ that indicates that no further remediation is needed for the interior of the building in which the center is located.

8. The Office of Licensing shall not issue licenses or renewals to child care centers that are co-located in a building or other structure that contains a dry cleaner or nail salon unless the applicant obtains indoor air sampling that demonstrates that there is no impact to the child care center.

(j) Asbestos precautions are as follows:

1. The building shall comply with the applicable provisions of the Asbestos Hazard Abatement Subcode of the NJUCC, as specified in N.J.A.C. 5:23-8, as well as the NJDEP, as specified in N.J.A.C. 7:27-17.2.

2. An inspection for asbestos containing materials shall be conducted as part of the Indoor Environmental Health Assessment. If the New Jersey Department of Health \*[and Senior Services]\* determines that corrective action must be taken to minimize exposure potential, the sponsor/sponsor representative shall follow the recommendation of that [page=647] Department for enclosure, removal, or other appropriate action to remove the threat or risk of asbestos contamination, as specified in N.J.A.C. 5:23-8.

(k) Swimming pool requirements are as follows:

1. Pools that are at least 24 inches in depth shall be defined as swimming pools and subject to the requirements specified in (k)2 below.

Recodify existing 3.-5. as 2.-4. (No change in text.)

(l) Emergency procedure requirements are as follows:

1. The center shall prepare written emergency procedures delineating:

i.-viii. (No change.)

ix. Procedures for ensuring children's safety and communicating with parents in the event of evacuation, lockdown, natural or civil disaster, and other emergencies. The procedures shall indicate:

(1) (No change.)

(2) The local law enforcement agency or emergency management office that has been notified of the center's identifying information, as specified in (l)3 below.

2. (No change.)

3. The center shall ensure that the appropriate local law enforcement agency or emergency management office is notified of:

i. (No change.)

ii. The number, ages, and special needs of children enrolled;

iii.-vii. (No change.)

(m) Supplemental evacuation requirements are as follows:

1. Children under 21/2 years of age shall be limited to the floor level of exit discharge in all buildings for centers that are new and relocating centers licensed after \*[(the effective date of this amendment)]\* **\*September 1, 2013\***. Centers that are permitted to have children under the age of 21/2 to occupy a floor above or below the level of exit discharge shall be required to provide additional staff in order to ensure safe and prompt evacuation.

Recodify existing 1.-2. as 2.-3. (No change in text.)

(n) Fire prevention requirements are as follows:

1. (No change.)

2. The center shall ensure that all children present are evacuated from the building within three minutes during each fire drill.

3.-4. (No change.)

(o) First aid requirements are as follows:

1. At least two staff members who have current certified basic knowledge of first aid principles and cardiopulmonary resuscitation (CPR), as defined by a recognized health organization (such as the American Red Cross), shall be in the center at all times when enrolled children are present.

2. (No change.)

(p) (No change.)

(q) Space and room requirements are as follows:

1. All space and rooms within the center to be used by children shall be inspected and approved by the Office of Licensing prior to their use. In making its determination, the Office of Licensing shall consider whether the space is too far removed, remote, or isolated from other areas of the center to be used by children.

i. For those rooms or areas that are too far removed, remote, or isolated from other centrally located rooms or areas of the center, the Office of Licensing may require the use of additional staff members, above those required for staff/child ratios, before granting approval.

ii. Rooms or areas of the center that are not Office of Licensing-approved for use by children shall be made inaccessible to children.

2. (No change.)

3. Indoor space requirements for play rooms and/or sleep rooms are as follows:

i.-iv. (No. change.)

v. The center shall identify all rooms of the center that have been approved by the Office of Licensing. This identification shall consist of numbers, letters, names, or any other means of identification and shall be located either inside or directly outside each room.

4. (No change.)

(r) The center shall take any steps required by the Office of Licensing to correct conditions in the building or center that may endanger the health, safety, and well-being of the children served.

#### 10:122-5.3 Additional physical plant requirements for early childhood programs

(a) For early childhood programs, the following shall apply:

1.-6. (No change.)

7. Outdoor space requirements for children over the age of 10 months are as follows:

i. For children in attendance for three or more consecutive hours, existing center(s) shall provide a minimum of 150 square feet of net outdoor space. When more than five children are using such a space at one time, there shall be 30 square feet of net outdoor space for each additional child in addition to the required minimum of 150 square feet. New and relocating centers licensed on or after \*[(the effective date of this amendment)]\* **\*September 1, 2013\***, shall provide a minimum of 350 square feet of net outdoor space. When more than 10 children are using such a space at one time, there shall be an additional 35 square feet of net outdoor space for each additional child in addition to the required minimum of 350 square feet.

ii. The outdoor area for new and relocating centers licensed on or after \*[(the effective date of this amendment)]\* **\*September 1, 2013\***, shall be in close proximity and safe walking route of the center and available for use by the children.

iii. Outdoor areas located near or adjacent to hazardous areas determined by the Office of Licensing to be unsafe (including, but not limited to, streets, roads, driveways, parking lots, railroad tracks, swimming pools, rivers, streams, steep grades, cliffs, open pits, high voltage boosters, or propane gas tanks) shall be fenced or otherwise protected by a natural or man-made barrier or enclosure.

**\*iv. The center shall not be required to meet the outdoor space requirement in (a)7i above, if the center can establish, to the satisfaction of the Office of Licensing, that:**

**(1) Compliance with the requirement is impossible at the proposed center site or an alternative site, expected to serve the same geographic location;**

**(2) There is a compelling need, as determined by the OOL on a case-by-case basis, for additional child care services in the local area; and**

**(3) There is a designated indoor active play area not used toward the center's licensed capacity that provides 35 square feet per child for at least 25 percent of the licensed capacity of the facility with a minimum of 350 square feet;\***

\*[iv.]\* **\*v.\*** (No change in text.)

10:122-5.4 Additional physical plant requirements for school-age child care programs

(a) For school-age child care programs, the following shall apply:

1.-4. (No change.)

10:122-5.5 Special physical facility and monitoring requirements to prevent child abuse and/or neglect

(a)-(b) (No change.)

(c) For rooms and/or areas used by children, except as specified in (e) below, the following monitoring requirements shall apply:

1. The center shall equip every room or area designated for use by children, except for kitchen and toilet facilities, with one of the following options in order to promote maximum visibility and/or audibility:

i.-iv. (No change.)

v. Any other Office of Licensing-approved monitoring system or equipment that provides equivalent visibility and audibility.

(d) Toilet facility requirements are as follows:

1. For existing centers that have only one toilet facility, or for existing centers that have more than one toilet facility, but where all toilets have been counted in determining the maximum number of children who can be served per session, the center shall ensure that staff members and/or other adults who use the toilet facility for their own toileting needs do so only:

i. (No change.)

ii. After the staff member and/or other adult has secured the door with a lock or latch that is located on the inside of the door at a height beyond the reach of the children.

(1) If a center documents to the satisfaction of the Office of Licensing that it lacks the authority to meet the lock/latch provisions noted in (d)1ii [page=648] above, the Office of Licensing may approve an alternative means by which the center may comply with the privacy intent of this provision.

2. (No change.)

(e) (No change.)

## SUBCHAPTER 6. PROGRAM REQUIREMENTS

### 10:122-6.1 Activities

(a) The center shall develop and provide a variety of children's planned activities, geared to the ages and developmental levels of the children served, that:

1. Promote the development of language, thinking and problem-solving skills, curiosity, exploration, large and small muscles, coordination and movement skills, social competence, self-esteem, and positive self-identity; and

2. (No change.)

(b) The staff member(s) specified in N.J.A.C. 10:122-4.5 who are responsible for developing and overseeing the implementation of the center's daily activities shall ensure that:

1.-3. (No change.)

4. Both staff-directed and child-selected activities are provided;

5. Children are:

i. (No change.)

ii. Provided with the time and space within the area to be apart from the group and to participate in an alternate activity if they choose to do so;

6. Children are provided with daily structured and unstructured developmentally appropriate indoor and outdoor energetic physical activity as follows:

i. At least 30 total minutes daily for children receiving child care less than four hours;

ii. At least 60 total minutes daily for children receiving child care more than four hours; and

iii. Whenever feasible, and unless the child is eating, sleeping, needs to complete a seated activity, or is ill, children shall not be inactive for more than 30 minutes; and

7. The use of a television, computers, and other video equipment shall be limited to educational and instructional use, shall be age and developmentally appropriate, and shall not be used as a substitute for planned activities or for passive viewing.

i. Centers shall significantly limit the use of television, computers, and other video equipment for children under the age of two and shall prepare and maintain on file written plans for such use and the length of time for their use. In addition, centers shall develop a written policy for the use of such equipment as it pertains to children in care less than four hours and children in care more than four hours.

ii. Centers shall develop a written policy regarding the use of television, computers, and other equipment for children over the age of two and maintain on file written plans for such use and the length of time for their use. In addition, centers shall develop a written policy for the use of such equipment as it pertains to children in care less than four hours and children in care more than four hours.

iii. Centers shall develop written plans for children with special needs who may benefit from the educational or instruction use of a television, computer, or other video equipment.

(c)-(e) (No change.)

(f) For early childhood programs, the following shall apply:

1. (No change.)

2. Centers serving children less than 18 months of age shall provide:

i.-ii. (No change.)

iii. Staff members shall provide periodic activity or learning opportunities to stimulate the five senses of children who are awake and being cared for in cribs, playpens, or other Office of Licensing-approved sleeping equipment.

iv. (No change.)

v. Staff members shall provide all children who are developmentally able with opportunities to leave their cribs, playpens, or other Office of Licensing-approved sleeping equipment to crawl, toddle, walk, and play.

3.-4. (No change.)

(g) (No change.)

#### 10:122-6.3 Food and nutrition

(a) All centers shall comply with the following requirements:

1. (No change.)

2. If the center chooses to provide food, the center shall ensure that all food served to children is prepared by either:

i. (No change.)

ii. A caterer who is licensed, registered, certified\*,\* or otherwise approved, as appropriate, by the local or county health department or State Department of Health \*[and Senior Services]\*, as applicable.

3.-10. (No change.)

11. Unless contraindicated by the parent or health care provider, the center shall:

i. Not serve sugar sweetened or artificially sweetened beverages. Parents that provide such beverages for their children shall be provided with information regarding healthier options;

ii. Not provide solid food to children under the age of six months;

iii. Not provide cows' milk to children under the age of 12 months;

iv. Provide only whole pasteurized milk to children between the ages of 12 and 24 months or milk with reduced fat (two percent) for those children who are at risk for hypercholesterolemia or obesity;

v. Provide skim (fat-free) or one percent milk to children older than two years of age;

vi. Ensure that food is in accordance with minimum Child and Adult Care Food Program's (CACFP) standards, contained in the Child and Adult Care Food Program, 7 CFR 226.20, which is incorporated herein by reference, and can be obtained at <http://www.fns.usda.gov/cnd/care/childcare.htm>, including portion size and nutritional value;

vii. Provide a variety of both fruits and vegetables and high portion of whole grains; and

viii. Limit foods that are high in solid fats, added sugar, trans fats, and sodium.

12. The center shall ensure that these safety and sanitation practices are followed:

i. Older infants shall not carry bottles, sippy cups, or regular cups with them while crawling or walking;

ii. Food left uneaten in a dish shall be discarded;

iii. Food shall not be shared among children using the same dish or spoon; and

iv. Unused portions of food shall be labeled with the child's name, date, and type of food. The food shall be stored in the refrigerator, returned to the parent, or discarded with the parent's consent. All unused food shall be discarded if not consumed after 24 hours of storage in the refrigerator.

(b) For early childhood programs, the following shall apply:

1.-2. (No change.)

3. Feeding requirements for centers serving children less than 18 months of age are as follows:

i. The center shall develop mutually with each child's parent(s) and follow a feeding plan regarding the feeding schedule, specific formula, breastfeeding arrangements/accommodations, and/or expressed breast milk, nutritional needs, and introduction of new food for each child.

ii.-iii. (No change.)

iv. Each child's bottle(s) shall be sanitized, including the nipple(s), when the center provides the bottle, labeled with the child's name and dated;

(1) Breast milk shall be gently mixed but not be shaken;

(2) Refrigerated breast milk must be used within 24 hours;

(3) Formula or breast milk that is served, but not completely consumed or refrigerated, shall be discarded; and

(4) No milk, formula, or breast milk shall be warmed in a microwave oven.

v.-viii. (No change.)

4. (No change.)

(c) (No change.)

10:122-6.4 Rest and sleep requirements for early childhood programs

(a) For early childhood programs, the center shall provide opportunities for daily rest and sleep as follows:

1. For children 12 months of age and younger, the center shall ensure that each child is **\*initially\*** placed in a face-up sleeping position unless a [page=649] different position is indicated in writing by the child's health care provider and ensure that blankets or pillows not cover the child's face.

2. For children 18 months of age and younger, the center shall provide daily rest and sleep according to the child's physical needs and ensure that blankets or pillows not cover the child's face.

3. (No change in text.)

(b) The center shall provide sleeping equipment for each child as follows:

1. For children 12 months of age and younger, the center shall provide for each child a crib that complies with the Consumer Product Safety Commission's (CPSC) Federal Safety Standards for Full-Size and Non-Full-Size Baby Cribs; 16 CFR 1219 and 1220, which is incorporated herein by reference, and can be obtained through the CPSC's website at <http://www.cpsc.gov/businfo/frnotices/fr11/cribfinal.pdf> (no later than December 28, 2012), playpen, or other Office of Licensing-approved sleeping equipment that meets the following requirements:

i.-iii. (No change.)

iv. Stackable cribs shall be prohibited. Centers currently using stackable cribs shall discontinue their use by August 6, 2014.

2. For children over the age of 12 months and under the age of five years, the center shall provide for each child a crib that complies with the Consumer Product Safety Commission's (CPSC), Federal Safety Standards for Full-Size and Non-Full-Size Baby Cribs; 16 CFR 1219 and 1220, which is incorporated herein by reference, and can be obtained through the CPSC's website at <http://www.cpsc.gov/businfo/frnotices/fr11/cribfinal.pdf> (no later than December 28, 2012), playpen, cot, mat, or other Office of Licensing-approved sleeping equipment that meets the following requirements:

i.-iii. (No change.)

iv. Stackable cribs shall be prohibited. Centers currently using stackable cribs shall discontinue their use by August 6, 2014.

(c) Centers that operate after 7:00 P.M. shall comply with the following requirements for rest and sleep:

1. (No change.)

2. For children who attend the center for more than three hours after 7:00 P.M., the center shall:

i. (No change.)

ii. Ensure that any Office of Licensing-approved sleeping equipment, other than a bed or mat, has been fitted with a minimum one-inch thick water-repellent mat or mattress; and

iii. (No change.)

(d)-(e) (No change.)

(f) When cribs, playpens, cots, mats or other Office of Licensing-approved sleeping equipment are stored with sheets, blankets, or other coverings as single units, at least one item of each unit shall be labeled with child-identifying information.



(g) (No change.)

(h) During rest and sleep periods, only one child shall occupy a crib, playpen, cot, mat, or other Office of Licensing-approved sleeping equipment at one time.

#### 10:122-6.5 Policy on the release of children

(a) The center shall maintain on file and follow a written policy on the release of children, which shall include:

1.-2. (No change.)

3. Written procedures to be followed by staff member(s) if the parent(s) or person(s) authorized by the parent(s), as specified in (a)1 above, fails to pick up a child at the time of the center's daily closing. The procedures shall require that:

i.-ii. (No change.)

iii. An hour or more after closing time, and provided that other arrangements for releasing the child to his or her parent(s) or authorized person(s) have failed and the staff member(s) cannot continue to supervise the child at the center, the staff member shall call the Department's State Central Registry Hotline (1-877 NJ ABUSE/1-877-652-2873) to seek assistance in caring for the child until the parent(s) or person(s) authorized by the child's parent(s) is able to pick up the child; and

4. Written procedures to be followed by a staff member(s) if the parent(s) or person(s) authorized by the parent(s), as specified in (a)1 above, appear to be physically and/or emotionally impaired to the extent that, in the judgment of the director and/or staff member, the child would be placed at risk of harm if released to such an individual. The procedures shall require that:

i.-ii. (No change.)

iii. If the center is unable to make alternative arrangements, as noted in (a)3ii above, a staff member shall call the Department's State Central Registry Hotline (1-877 NJ ABUSE)/1-877-652-2873 to seek assistance in caring for the child.

(b) (No change.)

#### 10:122-6.6 Discipline

(a)-(b) (No change.)

(c) Staff shall not withhold active play time as a means of discipline unless the child's actions or behavior present a danger to themselves or others.

Recodify existing (c)-(f) as (d)-(g) (No change in text.)

#### 10:122-6.8 Parent and community participation

(a) The center shall complete and maintain on file for each enrolled child a Children's Records Checklist, signed by the director or sponsor/sponsor representative and designated by the Office of Licensing, indicating that the center has obtained documentation of:

1.-7. (No change.)

(b)-(i) (No change.)

(j) The center shall develop and follow a written policy on the expulsion of children from enrollment at the center.

1. (No change.)

2. The center shall not expel a child based solely on the child's parent making a complaint to the Office of Licensing regarding a center's alleged violations of the licensing regulations, or questioning a center directly regarding policies and procedures.

3.-5. (No change.)

(k) (No change.)

## SUBCHAPTER 7. HEALTH REQUIREMENTS

### 10:122-7.1 Illnesses/communicable diseases

(a)-(c) (No change.)

(d) The following provisions relate to excludable communicable diseases:

1. The center shall not permit a child or staff member with an excludable communicable disease, as set forth in the Department of Health\*'s\* \*[and Senior Services]\* Reporting Requirements for Communicable Diseases and Work-Related Conditions Quick Reference Guide, revised July 2011, and available at [http://www.nj.gov/health/cd/documents/reportable\\_disease\\_magnet.pdf](http://www.nj.gov/health/cd/documents/reportable_disease_magnet.pdf), incorporated herein by reference, as amended and supplemented to be admitted to or remain at the center, until:

i.-iii. (No change.)

### 10:122-7.3 Health and immunization requirements for children

(a) For early childhood programs, the following shall apply:

1. (No change.)

2. For each child not enrolled in a public or private school, upon admission, the center shall maintain on file at the center a Universal Child Health Record (Department of Health \*[and Senior Services]\* Form CH-14) or its equivalent, updated annually, along with an immunization record, except for a 30-day grace period as permitted in N.J.A.C. 8:57-4.5(e) for children coming from other states or countries and in accordance with the provisions of N.J.A.C. 8:57-4.6 and 4.7, and a special care plan, if applicable.

3. (No change.)

Recodify existing 5.-6 as 4.-5. (No change in text.)

6. Those children with immunization exemptions may be excluded from the center by the Office of Licensing or the Department of Health \*[and Senior Services]\* during a vaccine-preventable disease outbreak or threatened outbreak, as determined by the State Commissioner of Health \*[and Senior Services]\*.

(b) (No change.)

### [page=650] 10:122-7.4 Health requirements for staff members

(a) Prior to or upon beginning work at the center, each staff member whose job duties require contact with the children for at least 20 percent of the center's weekly operating hours shall take a Mantoux tuberculin skin test with five TU (tuberculin units) of PPD tuberculin, except that the staff member shall have a chest x-ray taken if he or she has had a previous positive Mantoux tuberculin test. The staff member shall submit to the center written documentation of the results of the test and/or x-ray.

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1. If the Mantoux tuberculin test result is insignificant (zero to nine millimeters (mm) of induration), no further testing shall be required. The Office of Licensing or center may at any time require a staff member to retake the Mantoux tuberculin test if there is reason to believe or suspect that the staff member may have contracted tuberculosis or if the State Department of Health \*[and Senior Services]\* recommends retesting.

2. (No change.)

(b)-(c) (No change.)

(d) The sponsor/sponsor representative or director shall exclude a staff member who:

1.-2. (No change.)

(e) When the affected staff member specified in (d) above serves as the director, then the sponsor/sponsor representative shall take the necessary action specified above.

(f) When the affected staff member specified in (d) above is the sponsor/sponsor representative, then the Office of Licensing shall take the necessary action specified above.

#### 10:122-7.5 Administration and control of prescription and non-prescription medicines and health care procedures

(a) (No change.)

(b) The center shall develop and follow a policy on the administration of medication and health care procedures to children, which shall include the following provisions:

1. (No change.)

2. The center shall:

i. Designate those staff members who are trained as specified in N.J.A.C. 10:122-4.7(a)8 and authorized to administer medication or health care procedures to, or to supervise self-administration of medication or health care procedures by, those children whose parents authorize it; and

ii. (No change.)

3.-8. (No change.)

9. Before administering a health care procedure associated with a child's health condition, such as the use of a blood glucose monitor, nebulizer, or epinephrine pen, the center shall ensure that all staff members who administer the procedure are taught to do so by the child's parent or another appropriately trained person. There shall be at least two staff members present at the center who are trained in such health care procedures.

10. (No change.)

(c)-(d) (No change.)

#### 10:122-7.7 Environmental sanitation requirements

(a) Disinfectants shall be used as follows:

1. -2. (No change.)

3. The schedule for disinfecting shall be as follows:

i.-ii. (No change.)

iii. The following items shall be washed and disinfected at least weekly:

(1) Cribs, cots, mats, playpens, or other Office of Licensing-approved sleeping equipment; and

(2) (No change.)

iv. (No change.)

(b)-(c) (No change.)

(d) Smoking shall be prohibited in all rooms, vehicles, and outside play areas while such rooms, vehicles, and areas are occupied by children.

1.-3. (No change.)

4. The center shall post a sign in a prominent location which is clearly visible to employees and the public that smoking is prohibited.

5. (No change.)

(e) For early childhood programs, the following shall apply:

1. In addition to the items specified in (a)3 above, the following equipment items or surfaces shall be washed and disinfected after each use:

i. Toilet training chairs and potty seats that have first been emptied into a toilet;

ii.-v. (No change.)

2.-4. (No change.)

10:122-7.8 Personal hygiene requirements

(a)-(c) (No change.)

(d) For early childhood programs, the following shall apply:

1. Diapering requirements for centers serving children who are not toilet trained are as follows:

i.-ii. (No change.)

iii. Diapering supply requirements are as follows:

(1)-(3) (No change.)

(4) Staff members who use disposable gloves during a diaper change shall dispose of these gloves after each use and shall wash their hands.

iv. (No change.)

2. (No change.)

**10:122-7.10 Reporting of illnesses, injuries, and reportable diseases**

(a) The director or sponsor/sponsor representative, upon learning that an enrolled child or staff member at the center has been diagnosed as having contracted or is suspected of having a reportable disease, as specified in N.J.A.C. 10:122-7.1(d), shall report this knowledge by the next working day to the local health department.

(b) The director or sponsor/sponsor representative shall report the occurrence of any injury or illness that results in the admittance to a hospital or death of a child while under the center's supervision to the Office of Licensing by the next working day after the center learns of the occurrence.

(c) The director or sponsor/sponsor representative, having knowledge that a child has been injured by a dog, cat, or other animal that is kept by or located at the center, and when no physician attends such child, shall, within 12 hours of the injury, report the name, age, sex, and address of the child to the local health department.

**SUBCHAPTER 8. REQUIREMENTS FOR CENTERS SERVING SICK CHILDREN****10:122-8.7 Requirements for additional records for centers serving sick children**

(a) The center shall maintain on file the following additional records:

1.-4. (No change.)

5. The Information to Parents document, as specified in N.J.A.C. 10:122-8.5(b).

**SUBCHAPTER 9. TRANSPORTATION REQUIREMENTS****10:122-9.1 Scope**

(a) The provisions of this subchapter shall apply to:

1. (No change.)

2. Each person or agency other than the center that provides or arranges for the provision of transportation for children to or from their homes and a center.

(b) (No change.)

**10:122-9.4 Driver licensing requirements**

(a) If a center uses a Type I School Bus, Type II School Bus, or Type S School Vehicle, the center shall:

1. Meet all applicable rules of the Motor Vehicle Commission (MVC), Department of Education, and/or Department of Children and Families;

2.-3. (No change.)